



Llywodraeth Cymru  
Welsh Government

# **The Environment (Air Quality and Soundscapes) (Wales) Bill 2023**

**Explanatory Memorandum**  
incorporating the  
Regulatory Impact Assessment and  
Explanatory Notes

**November 2023**

# **The Environment (Air Quality and Soundscapes) (Wales) Bill 2023**

## **Explanatory Memorandum to The Environment (Air Quality and Soundscapes) (Wales) Bill**

This Explanatory Memorandum has been prepared by the Climate Change and Rural Affairs group of the Welsh Government and is laid before Senedd Cymru.

It was originally prepared and laid in accordance with Standing Order 26.6 in March 2023, and a revised Memorandum is now laid in accordance with Standing Order 26.28.

### **Member's Declaration**

In my view the provisions of the Environment (Air Quality and Soundscapes) (Wales) Bill, introduced by the Minister for Climate Change on 20 March 2023, would be within the legislative competence of Senedd Cymru.

### ***Lee Waters MS***

Deputy Minister for Climate Change  
Member of the Senedd in charge of the Bill

13 November 2023

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# **PART 1 – EXPLANATORY MEMORANDUM**

## **1. Description**

- 1.1. The Bill is a key step in meeting our aim to improve air quality and reduce the impacts of air pollution on human health, biodiversity, the natural environment and our economy.
- 1.2. The Bill will facilitate improvements in the quality of our air environment at a Wales-wide level, at a local and regional level and throughout society.
- 1.3. It will also contribute to our response to the climate and nature emergencies, alongside efforts to reduce inequalities.
- 1.4. The Bill includes changes to existing legislation which will streamline, strengthen and complement existing processes to make them more effective and accessible.
- 1.5. In summary, the Bill will:
  - provide a framework for setting national air quality targets;
  - amend existing legislation relating to:
    - the national air quality strategy,
    - local air quality management,
    - smoke control,
    - clean air zones/low emission zones; and
    - vehicle idling;
  - place a duty on Welsh Ministers to promote awareness of air pollution; and
  - place a duty on Welsh Ministers to publish a national soundscapes strategy.

## **2. Legislative Competence**

2.1. Senedd Cymru ("the Senedd") has the legislative competence to make the provisions in the Environment (Air Quality and Soundscapes) (Wales) Bill 2023 ("the Bill") pursuant to Part 4 of the Government of Wales Act 2006 ("GoWA 2006") as amended by the Wales Act 2017.

### 3. Purpose and intended effect of the legislation

#### General Policy Background

##### Aim of the Bill

- 3.1. The overarching aim of the Bill is to bring forward measures that will contribute to improvements in the quality of the air environment in Wales and reduce the impacts of air pollution on human health, biodiversity, the natural environment and our economy.
- 3.2. The Bill needs to be seen in a broad context, and not in isolation. It:
- is a crucial part of a package of measures set out in our Clean Air Plan to reduce airborne pollution and improve the air environment in Wales;
  - builds on a suite of existing legislation; and
  - complements legislation to achieve appropriate soundscapes as set out in the [Noise and Soundscape Action Plan 2018-2023](#).
- 3.3. By introducing this legislation, we also aim to maximise our contribution to the sustainable development principle of the Well-being of Future Generations Act 2015 (WFGA) to improve the economic, social, environmental and cultural well-being of Wales. The Bill is firmly grounded in the seven well-being goals in the WFGA. As set out in Chapter 8, we have also taken account of the Welsh Ministers' socio-economic duty, duties under the Equality Act 2010 (the 2010 Act) and the United Nations Convention on the Rights of the Child (UNCRC) when developing the Bill's proposals.

## Improving air quality and soundscapes

- 3.4. To improve the quality of our air environment we need to take measures to improve levels of air pollution and be mindful of our soundscape.
- 3.5. Air pollution is the presence of contaminants in the atmosphere, such as gases and particulates, in sufficient quantity or for sufficient duration to be harmful to human or environmental health. Emissions to air can arise through natural processes or man-made activities.
- 3.6. Soundscape is sometimes used loosely to mean all the sounds that may be heard in a particular time and place. It also has a more specialist meaning, where it refers to how that sound environment is perceived or experienced by a person or people in a given context. This definition, established in British and international standards, is useful when deciding what is appropriate in specific circumstances and is what we mean when we talk about soundscapes in Welsh Government policy documents like [Planning Policy Wales](#) and the [Noise and Soundscape Action Plan \(NSAP\) 2018-2023](#).
- 3.7. The [Clean Air Plan for Wales: Healthy Air, Healthy Wales](#) sets out how we will work collaboratively across sectors and with the public, to put in place new evidence-based policy, legislation, regulations and investment to reduce air pollution in line with highest international air quality standards.
- 3.8. As a government, we have long recognised that clean air alone is not sufficient to ensure a healthy air environment.
- 3.9. In the NSAP 2018-2023, Welsh Ministers committed to create and pursue any opportunities to further align noise/soundscape and air quality policy. This plan highlights that wherever air and noise pollution are both present and their sources are the same or related, they should be considered together rather than as separate problems. Air and noise pollution are both airborne pollutants, which can have a combined effect on the public's health, and in many situations they can be tackled to greatest effect through shared solutions.
- 3.10. An example of a joined-up approach to noise and air quality is demonstrated in Planning Policy Wales, published in 2018. This brought air quality and soundscape together into a single chapter. This integrated planning policy has led to air quality being added to the revised [Technical Advice Note 11](#), which previously only dealt with noise.
- 3.11. The Bill better enables innovative and collaborative development of plans and policies to support our aims for air quality, noise and soundscape.



3.12. We are the first Government in the UK to bring forward legislation requiring government consideration of soundscapes.

### Fulfilling a Welsh Government commitment to legislate

3.13. Our [Programme for Government for 2021 to 2026](#) reiterated our commitment to introduce a Clean Air Act for Wales, consistent with World Health Organisation (WHO) guidance and to extend the provision of air quality monitoring. This will include taking account of the latest scientific information, including the updated WHO guideline levels, alongside taking independent expert advice, to inform the development of new air quality targets.

3.14. On 5 July 2022, the First Minister made his legislative statement for year two of this Senedd term. In that statement the commitment of the Welsh Government to create a fairer, stronger, greener Wales was underlined and the intention to bring forward a number of Bills with a focus on the environment was set out. The First Minister stated a Clean Air Bill would be introduced to build on work already underway to reduce emissions and deliver vital improvements in air quality, supporting healthier communities and better environments. This Bill satisfies this commitment.

### Why is the Bill needed?

#### **Improving Health**

3.15. The [WHO](#) has described air pollution as the world's largest single environmental health risk. In addition, poor air quality can adversely affect wildlife through widespread changes to species distribution and the quality of habitats.

3.16. Pollutants such as fine particulate matter (PM<sub>2.5</sub>) and nitrogen dioxide (NO<sub>2</sub>) are a cause of some health problems and can make others worse. Breathing in these pollutants over several years can increase health risks from heart and lung diseases, and lung cancer. There is also evidence that other body organs may also be affected, with possible effects on dementia, low birth weight and diabetes. Symptoms arising from shorter-term exposure can include eye, nose and throat irritation.

3.17. The health effects of air pollution depend on how much people are exposed to and for how long. Air pollution affects people in different ways with risks and impacts changing over a lifetime. Some, such as children, older people and those with heart or lung problems are more likely to be affected. In particular, children can suffer from poor lung development and asthma symptoms because of air pollution exposure.

- 3.18. People who live or work in highly polluted places or who regularly travel in or through polluted areas (such as city centres) may be at higher risk of pollution-related health problems. People who live in the most deprived areas are also more likely to be harmed by air pollution exposure because deprivation and poor health influences can combine to make people less able to cope with or adapt to air pollution exposure, risks and impacts may be worse compared with elsewhere.
- 3.19. Estimating the health impact of air pollution is difficult. The [Chemical Hazards and Poisons Report](#), June 2022, contains a paper on “Updated Mortality burden estimates attributable to air pollution”. This estimated the burden range of poor air to be the equivalent of between 29,000 and 43,000 deaths per year in the UK. Public Health Wales [estimates](#) the burden of long-term air pollution exposure to be the equivalent of 1,000 to 1,400 deaths (at typical ages) each year in Wales.

### **Economic impacts**

- 3.20. Air pollution carries severe social costs and risks adverse effects on economic growth, through its impact on the health and therefore the productivity of people of working age. There are knock-on effects to the economy through time off work and costs to the health service. Public Health England has [estimated](#) that between 2017 and 2025 the total cost to the NHS and social care system, in England, of air pollutants (fine particulate matter and nitrogen dioxide), for which there is more robust evidence for an association, will be £1.6 billion.

### **Protecting nature**

- 3.21. Air pollution contributes to acidification of soil and surface water, eutrophication in sensitive habitats and damages vegetation through exposure to ozone. Emission controls have enabled air quality improvements at a local, national and international level.
- 3.22. Poor air quality can also adversely affect wildlife through widespread changes to species distribution and the quality of habitats in the UK and is a threat to the Conservation Status of many habitats listed under the Habitats Directive.
- 3.23. Our Clean Air Plan for Wales: Healthy Air, Healthy Wales describes the suite of actions Welsh Government is taking to tackle air pollution across society. However, we need to change and update existing legislation as it does not allow us to deliver our full ambition set out in the Plan.

## **Noise pollution and soundscapes**

- 3.24. Airborne sound is not a substance impurity in the air, but a superposition of pressure waves that can affect people's well-being, positively or negatively, both consciously and subconsciously. Noise, meaning unwanted or harmful sound, has been [ranked by the WHO](#) as the second biggest environmental contributor to ill health in Western Europe after air pollution.
- 3.25. Noise can disrupt sleep and increase levels of stress, irritation and fatigue, as well as interfering with important activities such as learning, working and relaxing. In other words, it reduces the quality of our lives. Exposure to loud sounds can cause hearing damage, while exposure to noise over the long term can increase our risk of hypertension-related illnesses and cardiovascular disease.
- 3.26. Our 2017 noise maps suggested the homes of more than 200,000 people across Wales are exposed to road traffic noise levels exceeding the WHO's 2009 [Night Noise Guidelines](#). Noise levels inside properties and noise arising from other sources such as neighbours and businesses are less easy to map nationally than transportation noise. However, according to the National Survey for Wales, a quarter of the people in Wales are regularly bothered by noise from outside their home. People in the most deprived 20% of areas (in terms of the Welsh Index of Multiple Deprivation) are twice as likely to say they are regularly bothered by noise than people living in the least deprived 20%.
- 3.27. Both air and noise pollution carry severe social costs, through their impact on the health and productivity of people of working age, and the education of children, resulting in the risks of adverse effects on economic growth.

## **Air quality and climate change – supporting action to tackle the climate emergency**

- 3.28. The provisions in the Bill are aimed at tackling air pollution and improving the air environment in Wales. The most important factor for air quality is the concentration of pollutants near the earth's surface. These are the pollutants that people breathe in, often with detrimental health impacts. Greenhouse gases which contribute to climate change are most active high up in the atmosphere.
- 3.29. Climate change poses an ongoing national and global threat to our health, economy, infrastructure and natural environment. In recognition of this, in April 2019 the Welsh Government declared a climate emergency in Wales.

- 3.30. Air pollutants can have a cooling or a warming effect on the atmosphere. Air pollutants can also affect the concentrations of greenhouse gases. Conversely, changes in the climate can affect air quality. For example, hot summers may lead to a higher frequency of summer pollution episodes, such as smog. Air pollution often originates from the same sources which contribute to climate change (e.g. vehicles, buildings, domestic combustion, power generation, agriculture and industry). There are therefore clear linkages between actions and technologies designed to reduce emissions of either or both.
- 3.31. Tackling climate change and air pollution requires collaborative action across society and sectors. The Welsh Government is committed to playing a central role in enabling this to happen, securing environmental growth for Wales.
- 3.32. The focus of the Bill is on measures to reduce airborne pollution and improve the air environment. However, we recognise the opportunities for reducing greenhouse gas emissions and improving air quality together and, where tensions exist, the need to take a balanced approach to support clean growth. Integrating both air quality and climate change considerations into government policies is a good example of Welsh Government's commitment to introduce measures which are aligned at a strategic and local level to improve the environment in Wales.

### **Existing legislative interventions**

- 3.33. National air quality improvements and noise interventions to date have been driven by European Directives, and UK and Welsh legislation which predate them. This includes legislation which set limits on ambient concentrations, UK pollutant emission reductions and concentrations of pollutants from specific sources, such as cars and industry. Under separate national legislation, which predated the Directives, local authorities tackle air quality issues at a local level through a Local Air Quality Management (LAQM) process.
- 3.34. There is also a patchwork of domestic and EU-derived noise legislation, which gives more attention to certain geographical areas and types of noise than to others, with no overarching national strategy required in legislation.
- 3.35. The existing framework for air quality and noise has delivered notable improvements in air and noise quality. However, we have gaps remaining and this Bill intends to fill them.

## Summary of Proposals

3.36. At a Wales-wide level, we are proposing several actions:

- Creating an air quality target-setting framework (National Targets), allowing Ministers to set Wales-specific, evidence-based targets in relation to air pollutants. This will enable Ministers to consider existing targets as well as provide the ability to respond to emerging issues by setting new targets for pollutants as evidence of harm arises. This proposal aims to help protect the health of the public, nature and the environment by reducing air pollution.
- Welsh Ministers must put in place arrangements to collect data to assess progress made towards targets and ensure it is published. The interpretation of such data can assist in assessing the pressures and risks relating to air quality across Wales and the progress made towards meeting any targets or interim targets set under the framework.
- A requirement for Welsh Ministers to consult on and publish in up-to-date form both a Clean Air Plan for Wales (the national air quality strategy) and a Noise and Soundscape Plan for Wales (the national soundscapes strategy) following each Senedd election, allowing integrated action on the two related policy areas. These plans will set out policy priorities and actions to protect and improve air quality and soundscape in Wales for current and future generations. As well as direct benefits to public health, joined-up action in these areas is expected to provide important benefits to quality of life and will help to protect nature, our climate and the wider environment.

3.37. At a local and regional level, we are proposing several actions to:

- Clarify and strengthen LAQM legislation to ensure the regime operates more effectively.
- Enable local authorities to better manage and enforce emissions of smoke in Smoke Control Areas (SCAs) through strengthened smoke control provisions.
- Better enable Welsh Ministers to implement Clean Air Zones (CAZ) or Low Emission Zones (LEZ), where they are needed. These can result in improvements in local air quality by incentivising behaviour change, including take-up of cleaner transport modes and active travel alternatives which can also deliver wider health benefits.
- Enhance vehicle anti-idling provisions. Specifically, we will introduce a power, through regulations, for Welsh Ministers to create a range of monetary penalties in relation to the offence of stationary vehicle idling. This will enable higher penalties to be set where the circumstances warrant it. For example, where vulnerable groups are being affected or in relation to repeat offences.

3.38. In addition, we will support people and organisations to reduce their exposure and contribution to air pollution by placing a duty on Welsh Ministers to take steps to promote awareness of air pollution, including the health and environmental impacts and actions that may help to reduce or limit air pollution.

3.39. The rationale for introducing legislation and the purpose of individual areas of the Bill is set out in more detail below.

# Detailed Proposals

## National Targets

### i. Background

- 3.40. Our air is cleaner in general terms than at any time since the industrial revolution. This has largely been achieved through controls on emissions of pollutants from power stations, industry, including agriculture, transport and domestic sources. Although air pollutants may now be largely invisible, the longer-term exposure to gases and particulates can be harmful to human health and the natural environment. Exposure to the lower levels of pollution in today's atmosphere is one of the biggest public health challenges, shortening lifespans and damaging the quality of life of many.
- 3.41. In Wales, the long-term mortality burden attributable to air pollution exposure is an estimated effect equivalent range of between 1,000 and 1,400 deaths. It is a cause of both chronic and acute diseases such as asthma, cardiovascular problems and lung cancer. Air pollution also adversely affects wildlife. It causes widespread changes to species distribution and to the quality of habitats in the UK and is a threat to the Conservation Status of many habitats listed under the Habitats Directive.
- 3.42. Air pollution is a local, regional and international problem caused by the emission of pollutants which, either directly or through chemical reactions in the atmosphere, lead to negative impacts on human health, ecosystems and the economy. Although air quality in Wales is generally good, more needs to be done to reduce the harmful effects of air pollution in areas where it remains an issue.
- 3.43. Much of the current framework for air quality policy in Wales, and across the UK, stems from domestic, European and additional international policies and legislation. Although air quality is a devolved matter, the UK Government ensures national policies meet international guidelines and agreements. Under separate national legislation, set out in Part IV of the Environment Act 1995 (the 1995 Act), local authorities tackle air quality issues at a local scale through the Local Air Quality Management (LAQM) process.
- 3.44. The World Health Organisation (WHO) publish air quality guidelines which aim to inform the setting of national air quality standards and provide a basis for protecting public health from the adverse effects of air pollution. However, these are guidelines, not standards, as they are based solely on scientific conclusions about public health aspects of air pollution. National regulatory air quality standards also need to account for the technical feasibility alongside economic and social implications of the achievement of these levels.

3.45. Air pollution continues to be the largest environmental risk to public health. Therefore, the Programme for Government, the White Paper on a Clean Air (Wales) Bill and our Clean Air Plan for Wales include commitments to introduce a Clean Air (Wales) Act with ambitious new air quality target setting provisions. New targets will provide a strong mechanism to deliver long-term environmental outcomes, including helping to combat the current climate and nature emergencies.

## **ii. Why change is needed**

3.46. Evidence on the effects of air pollutants is constantly emerging and so it is important we have the ability to manage associated pressures and risks in the long term. To drive action needed to achieve cleaner air and reduce the impacts of air pollution in Wales, it is important we are able to set the right targets.

3.47. Although we have left the European Union (EU), existing air quality standards, which have their origins in EU law, will continue to have effect in Wales, providing continuity and ensuring standards are maintained. However, it is important Welsh Ministers have their own mechanisms for setting targets.

3.48. Welsh Ministers are committed to reducing the harmful effects of poor air quality in Wales and want the ability to set ambitious, realistic and achievable targets which reflect the specific circumstances in Wales. Consequently, we propose to introduce an air quality target-setting framework which will enable Welsh Ministers to tighten existing air quality targets and introduce long-term targets for newly identified pollutant risks. These will be based on evidence, including new evidence as it emerges, and supported by a clear process for setting, reporting on and reviewing targets.

3.49. The strongest body of evidence connecting an air pollutant with mortality and other morbidity effects involves fine particulate (PM<sub>2.5</sub>) where the associations found in a large number of epidemiological studies are now widely considered to be causal. Particulate matter (PM) is not a single compound, it is made up of a mixture of solid and liquid particles of organic and inorganic chemicals. It includes some naturally occurring ones, such as salt and dust. For this reason, we are proposing to impose a duty on Welsh Ministers to set a target in relation to PM<sub>2.5</sub> through the Bill.



### iii. Policy Objectives

- 3.50. The purpose of any new air quality targets is to reduce the harm caused by exposure to poor air quality to human health, nature and the environment. Alongside providing a 'minimum' level of air quality across Wales, we also want targets to drive long-term continuous improvement to reduce exposure to pollution whilst maximising the associated benefits.
- 3.51. Future air quality targets need to be underpinned by evidence and metrics to achieve the most effective improvement, supporting the delivery of our well-being goals in the WFGA. We are therefore considering the recently [updated WHO air quality guidelines](#) alongside independent expert advice and analysis on a range of factors as part of the development process for potential new targets. Evidence on the independent adverse health effects from a range of pollutants continues to emerge and a target-setting framework will enable Welsh Ministers to respond to future public and environmental health pressures.
- 3.52. As recognised by the WHO, the standard-setting process needs to aim at achieving the lowest concentrations possible in the context of national and local constraints, capabilities and public health priorities. To do this, the WHO encourages the adoption of increasingly more stringent standards and tracking their effectiveness over time.
- 3.53. Introducing an air quality target-setting framework, with targets underpinned by robust compliance assessment and reporting is consistent with this approach. This includes robust requirements for the monitoring of compliance with targets so that we will know whether we are on track to achieve the required improvements in air quality in Wales. Once targets have been set, Welsh Ministers will be required to review the targets within five yearly intervals, seeking independent and expert advice and accounting for current scientific understanding about air quality. This will provide the opportunity to check that current evidence continues to support the effectiveness of targets in achieving their purpose. Laying a statement before the Senedd to describe any potential action Welsh Ministers would intend to take following a review will ensure the basis for any changes is transparent and open to scrutiny.

#### **iv. Purpose of the Legislation**

- 3.54. The purpose of the National Target setting provisions within the Bill is to drive action needed to improve air quality and further reduce impacts of air pollution by introducing an air quality target-setting framework, enabling Welsh Ministers to set long-term targets. Welsh Ministers will also be required to set a specific target in respect of PM<sub>2.5</sub> in ambient air within three years of the Bill receiving Royal Assent. Targets set under the framework will be in addition to our existing emission reduction commitments and air quality standards for all regulated pollutants.
- 3.55. An integral part of the National Target setting provisions is the new requirement on Welsh Ministers to put in place arrangements for the collection of data to assess progress made towards targets, and to ensure it is published.
- 3.56. The Bill proposes to give Welsh Ministers the power, through Regulations, to set long-term targets in relation to any matter relating to air quality in Wales. A long-term target is defined as a target which must be met no less than ten years after the date on which the target is initially set.
- 3.57. As set out above, the strongest body of evidence connecting an air pollutant with mortality and other morbidity effects involves PM<sub>2.5</sub>. Consequently, the Bill also places a duty on the Welsh Ministers to make regulations in respect of the annual mean level of PM<sub>2.5</sub> in ambient air in Wales. The target can be a long-term or a short-term target. The Bill places a duty on Welsh Ministers to ensure regulations setting a PM<sub>2.5</sub> air quality target must define “ambient air” for the purpose of each PM<sub>2.5</sub> target and that regulations may contain a different definition for different targets. The Welsh Ministers must make the PM<sub>2.5</sub> Regulations within three years of the date on which the Bill receives Royal Assent.

3.58. This period of time is necessary as there are a significant number of steps that need to be undertaken before such a target can be set. Our policy intention is to ensure the target is set in a transparent way and with full consultation. The process will be informed by a number of sources of evidence including scientific data and models which will take into account the effects of transboundary pollutants, historical datasets, and assessment of what is feasible from a socio-economic perspective. It will be an iterative process and rely on input, expertise and scrutiny from others. The main steps are as follows:

- Determining the scope of targets to be set under the framework, drawing on international practice and expert opinion, to ensure targets will effectively incentivise desired outcomes.
- Analysing target options to provide the evidence base underpinning the detail of the targets. This will include the analysis of future air quality concentrations over given time periods and the potential improvements which could be achieved through the implementation of potential cross-sector measures and future policy choices. Socio-economic analysis will assess the costs, benefits and distributional impacts of any such measures. These considerations will help ensure that proposed targets are achievable and affordable, whilst driving the ambitious changes needed to improve air quality and support wider government ambitions, such as for decarbonisation. Independent expert advice will be sought to inform the direction of the work. This step will provide objectively measurable target metrics and a range of ambitious and achievable proposals for target standards and dates to be achieved by.
- Engagement and public consultation on the target proposals. We will engage with key stakeholders during the development of target options as well as seek views on the target proposals to understand views on the ambition, evidence and their feasibility. Impact assessments will inform the formal public consultation and help us ensure that relevant evidence is properly gathered and is open to scrutiny.
- Drafting of the target regulations. The consultation feedback will be considered, and the Welsh Government's response will be published. Welsh Ministers will then determine the targets to be set and the regulations will be drafted in full.

- 3.59. The Bill sets out a robust target setting process to ensure both the long-term targets set under the Bill and the PM<sub>2.5</sub> target are evidence based, ambitious and achievable. For example, the Bill provides that targets set by the Welsh Ministers must be capable of being objectively measured and regulations must set a date by which the standard is to be achieved. This will ensure the target requirements are clear and progress towards them can be measured. Where possible, targets should be based on environmental outcomes, meaning the intended final results should benefit public or environmental health. An example of this approach is the carbon budget setting process which sets the pathway to making progress to Wales' [Net Zero emissions targets](#) without describing how to get there. This approach allows flexibility and innovative ways of meeting targets.
- 3.60. In addition, the Bill provides that before making regulations to set long-term targets or a target for PM<sub>2.5</sub>, Welsh Ministers must, firstly seek advice from persons they consider to be independent and to have relevant expertise; and secondly have regard to scientific knowledge on air pollution. Before making regulations, which set or amend a target in relation to a particular pollutant, the Bill also requires the Welsh Ministers to have regard to the most recent air quality guidelines published by the World Health Organisation in relation to that pollutant. These provisions are included to ensure that when setting the targets, Welsh Ministers seek advice from independent and appropriately qualified experts. Independent expert advice and scientific knowledge are available to Welsh Government through a number of independent expert groups. We have established an independent panel of experts, the Clean Air Advisory Panel, which is providing advice and recommendations on the target setting process and specific priority air pollutant targets in Wales. The Panel membership includes representation from academia and national and local government policy makers (in the fields of air quality, health and the environment).
- 3.61. Alongside this, further independent and expert advice is available to Welsh Government from the UK advisory groups, the Air Quality Expert Group and the Committee on the Medical Effects of Air Pollution. In relation to the requirement to have regard to scientific knowledge on air pollution, Welsh Ministers will have regard to international evidence on the health and environmental effects of air pollution, and the economic, technical and social analyses, and the feasibility of meeting targets. Reports by Natural Resources Wales (NRW) on air quality, including the State of Natural Resources Report for Wales, and the most recent WFGA future trends report would also be considered.

- 3.62. The target setting process also provides the Welsh Ministers with powers to make regulations that lower or revoke a target made under the Bill's provisions only if they are satisfied that:
- (i) meeting the existing target would have no significant benefit compared with not meeting it or meeting a lower target, or
  - (ii) because of changes in the circumstances since the existing target was set or last amended the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits.
- 3.63. There is also a requirement that before making regulations that revoke or lower a target, the Welsh Ministers must lay a statement before the Senedd Cymru (and publish it) setting out why they believe the conditions above are satisfied. A target is lowered if it is to be replaced with a target of a lower standard or if the date for compliance with a target is extended.
- 3.64. The purpose of these provisions is to ensure the air quality standards that are set in either the long-term targets Regulations (under section 1) or the PM<sub>2.5</sub> Regulations (under section 2) cannot be weakened without very good reason. This is an important provision to protect air quality standards in Wales. It should be noted the Bill provides the PM<sub>2.5</sub> target can be amended but not revoked.
- 3.65. It is not enough for regulations to simply set targets. For targets to have “teeth” there must be suitably robust reporting and review provisions and a means of determining whether targets have been met, and if not what the cause of the issue or issues are and what can be done about it.
- 3.66. The Bill deals with this in a number of ways. Welsh Ministers are placed under a duty to ensure long-term targets set under section 1 and PM<sub>2.5</sub> air quality targets set under section 2 are met.
- 3.67. There are also detailed provisions on reporting and reviewing targets. Section 5 places stringent reporting obligations on Welsh Ministers. Regulations making a long-term target (under section 1) or a PM<sub>2.5</sub> target (under section 2) must specify a reporting date. Welsh Ministers are required, on or before the reporting date, to lay before the Senedd (and publish) a statement saying:
- (i) the target has been met;
  - (ii) the target has not been met; or
  - (iii) they are not yet able to determine whether the target has been met, the reasons for that and the steps Welsh Ministers will take in order to determine whether the target has been met.

- 3.68. Where a target has not been met, the Welsh Ministers must within 12 months of laying the statement, lay before the Senedd (and publish) a report that explains:
- why the target has not been met; and
  - set out the steps the Welsh Ministers have taken, or intend to take, to ensure the specified standard is achieved as soon as reasonably practicable.
- 3.69. There are similar provisions in section 5(6) where the Welsh Ministers have indicated they are not yet able to determine whether a target has been met.
- 3.70. The purpose of these provisions is to hold the Welsh Ministers accountable for the targets they have set and require them to report on progress and take action where targets are not being met. Requiring the laying of reports before the Senedd and additional publication means that the whole reporting process is transparent and open to scrutiny.
- 3.71. Evidence in relation to our understanding of air quality will evolve over time. It is important that regulations which set targets remain up to date and fit for purpose. To achieve this, the Bill contains comprehensive review provisions that require Welsh Ministers to review long-term targets set under section 1 and the PM<sub>2.5</sub> target set under section 2 within five years of the first such regulations being made and, subsequently, at five yearly intervals. When conducting reviews, Welsh Ministers must seek independent, expert advice and have regard to scientific knowledge about air pollution. In addition, the Bill requires the Welsh Ministers to have regard to the most recent air quality guidelines published by the World Health Organisation in relation to a pollutant when reviewing a target for that pollutant.
- 3.72. Once they have carried out the review, Welsh Ministers must lay a statement before the Senedd on the steps, if any, they intend to take following the review process. Where the statement provides that no action is to be taken in relation to a target, the statement must set out the Welsh Ministers' reasons for that decision.
- 3.73. The purpose of these provisions is to ensure targets set under sections 1 or 2 are subject to regular review and Welsh Ministers must take independent advice, take account of scientific knowledge on air pollution and have regard to the most recent World Health Organisation air quality targets in relation to a pollutant both when setting and amending targets and when undertaking a review. This ensures progress towards air quality targets set under the framework remains likely, based on current evidence, to drive the net air quality benefits anticipated when the targets were set whilst avoiding disproportionate costs. Such costs might be of an environmental, social, economic, or other nature.

- 3.74. The Bill also requires Welsh Ministers to arrange the appropriate collection and publication of data to provide transparent rigour to the assessment of progress towards, and the subsequent achievement of, compliance with the air quality targets set under the framework.
- 3.75. Section 8 of the Bill places a duty on Welsh Ministers to maintain air quality standards set in regulations made under section 1 or 2 of the Bill.
- 3.76. The duty applies once both the target set in the regulations (the specified standard) and the date for meeting the target (the specified date) have been met. The Welsh Ministers are required to make regulations under section 87(1) of the 1995 Act to ensure they are under a duty to maintain the standard and to set reporting requirements. Regulations made under section 87(1) are subject to the affirmative procedure.
- 3.77. The Bill also provides safeguards if the Welsh Ministers propose to use their powers under section 87(1) of the 1995 Act to revoke or lower a target. These are the same protections that apply to the general target setting process under section 3 of the Bill.
- 3.78. The duty is important as it places Welsh Ministers under an ongoing duty to ensure pollutants are maintained at the target level set under section 1 or 2 of the Bill after the target date has passed and to report on compliance. It ensures air quality is maintained and there is transparency on compliance.
- 3.79. In addition, the Bill places Welsh Ministers under a duty to report on the consideration they have given to using their powers under section 1 of the Bill to set a long-term air quality target.
- 3.80. In particular, the Welsh Ministers must report on the consideration they have given to setting targets for ammonia, PM<sub>10</sub>, ground level ozone, nitrogen dioxide, carbon monoxide, and sulphur dioxide during each “reporting period”. They are also able to report on any other pollutants as part of this process. The first report must be published and laid before the Senedd within two years and two months of the Bill receiving Royal Assent. After that initial report, the reporting period is annual.
- 3.81. This section is significant as it is a powerful mechanism for the Senedd to hold Welsh Ministers to account on the exercise of their powers under section 1 of the Bill.

**v. How the legislation enables sectors to operate more efficiently**

3.82. Powers to set long-term air quality targets will ensure public health and environmental improvements become a long-term as well as a short-term priority for future governments. The proposed new duties on Welsh Ministers to collect and publish data, and review and report on progress towards compliance with targets set under the framework, will ensure the process is open and transparent. Legally binding targets will also provide long-term certainty across society, including for business and industry.

**vi. Risk if legislation is not made**

3.83. The cost of setting up the framework is minimal compared to the health costs caused by poor air quality. Improvements in air quality driven by new long-term targets are likely to have the biggest positive effect on children, those living in poverty and those living in areas with the highest levels of air pollution. A target-setting framework will deploy an evidence-based approach to ensure that any measures required to be taken to meet targets set under it do not detrimentally affect the population of Wales, especially disadvantaged groups.



## Promoting Awareness of Air Pollution

### i. Background

3.84. Existing legislative requirements regarding air quality information and awareness are limited and centred around compliance with legal limits and targets. A [review](#) of air quality evidence undertaken by Public Health England in 2019 found that practical interventions to raise awareness of air pollution sources and mitigating actions can help everyone to reduce their exposure, and contribution to, air pollution. We therefore propose to place a duty on Welsh Ministers to take steps to promote awareness of air pollution.

### ii. Why change is needed

3.85. There is a gap in the legislative landscape regarding air quality information and awareness. The Air Quality Standards (Wales) Regulations 2010, set out requirements for Welsh Ministers to publish information relating to pollutant concentrations, exceedances of legal limits and the health and/or environmental impacts those exceedances may have. However, expectations regarding air quality information, management and action have increased significantly since 2010.

3.86. The Prevention of Future Deaths report following the inquest into the death of Ella Kissi-Debrah was published on 21 April 2021 on the Chief Coroner's website. The Coroner identified two 'matters of concern' linked to promoting awareness of air pollution:

- There is a low public awareness of the sources of information (such as UK-Air website) about national and local pollution levels. Greater awareness would help individuals reduce their personal exposure to air pollution. It was clear from the evidence at the inquest that publicising this information is an issue that needs to be addressed by national as well as local government. The information must be sufficiently detailed, and this is likely to require enlargement of the capacity to monitor air quality, for example by increasing the number of air quality sensors; and
- The adverse effects of air pollution on health are not being sufficiently communicated to patients and their carers by medical and nursing professionals.

3.87. Although the report did not require action from the Welsh Government, we believe this proposal in the Bill will enable us to act on these recommendations and in turn better protect the health of the people of Wales.

### iii. Policy Objectives

3.88. The policy objective of this proposal is to ensure sustained action to increase awareness of:

- The health and environmental impacts, of air pollution and the benefits of clean air; and
- Actions that reduce concentrations and exposure to air pollution.

The broad nature of the proposal enables a wide possibility of options for implementation and provides flexibility should information and awareness requirements may change over time.

3.89. A delivery plan will be developed with stakeholders to ensure focused action and will be reported on annually to enable scrutiny. The delivery plan could include:

- Improvements to existing provision of air quality data.
- Encouraging, supporting and promoting local initiatives that involve communities in air quality action.
- Action to reduce idling, including promoting awareness of the local air quality improvements this can achieve.
- Improving the provision of air pollution resources for health professionals and patients.
- Running air quality specific awareness campaigns and embedding air quality messaging into other relevant campaigns, drawing on communications and behaviour change expertise to inform design.
- Improving and promoting information regarding action that can be taken to reduce concentrations of, and reduce exposure to, air pollution. This may include signposting to existing information developed by other organisations who may be more appropriate messengers in some contexts.
- Reviewing current information on the sources of air pollution and the health and environmental impacts, taking into account accessibility and requirements of different groups.

3.90. The Public Health England 2019 [evidence review](#) found that local air quality initiatives are most effective when underpinned by supportive policies, so future delivery plans could be embedded into Welsh Government clean air plans or strategies to ensure join-up between local and national efforts.

#### **iv. Purpose of the Legislation**

3.91. The purpose of the proposal is to fill a gap in existing legislation by placing a duty on Welsh Ministers to take steps to promote awareness of i) the health and environmental impacts of air pollution and ii) ways to reduce or limit air pollution.

3.92. The legislation will also ensure sustained action by successive governments to promote awareness of air pollution in order protect public health and the environment.

#### **v. How the legislation enables sectors to operate more efficiently**

3.93. The legislation will ensure the availability of resources and support for promoting awareness of air pollution. This will enable sectors to operate more efficiently by reducing the need for duplication, encouraging collaborative initiatives and ensuring messages are consistent.

#### **vi. Risk if legislation is not made**

3.94. If the legislation is not made, there is a risk that action to promote awareness of air pollution could be reduced over time. As set out above, the [Report to Prevent Future Deaths](#) outlined the need for national and local government to address the low awareness of air pollution and action to reduce exposure. This highlights the importance of this legislation in ensuring that efforts to promote awareness of air pollution are sustained.

# National Air Quality Strategy

## i. Background

- 3.95. Setting out government intentions for air quality has been a priority for a number of years with a National Air Quality Strategy required under Section 80 of the Environment Act 1995 (the 1995 Act). When section 80 of the 1995 Act was commenced on 1 February 1996, it established a duty on the Secretary of State to publish a National Air Quality Strategy which covered the whole of Great Britain. There is equivalent legislation in Northern Ireland, but previous strategies published under section 80 have covered Northern Ireland.
- 3.96. The functions of the Secretary of State under section 80 were transferred, in relation to Wales, to the National Assembly for Wales via the National Assembly for Wales (Transfer of Functions) Order 1999. Those functions were subsequently transferred to the Welsh Ministers via section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006. However, the National Air Quality Strategy was still published jointly as the provision in section 80(3) of the 1995 Act requiring the strategy to cover the whole of Great Britain was still in force.
- 3.97. The first Air Quality Strategy was adopted in 1997. This was replaced in January 2000 by the Air Quality Strategy for England, Scotland, Wales and Northern Ireland which established the framework for achieving further improvements in ambient air quality. The Strategy identified actions at local, national and international level to improve air quality. The Strategy was further updated in 2003. A full review led to an [updated Strategy](#) published in 2007.
- 3.98. Work in each government to improve air quality has continued to progress, and in August 2020 the Welsh Government published the first comprehensive [Clean Air Plan for Wales](#). The White Paper for a Clean Air Bill for Wales proposed to create a requirement for a Welsh clean air plan or strategy to be reviewed and published, at least every five years. Following this, UK Government brought forward an amendment to section 80 of the 1995 Act in paragraph 2 of Schedule 11 to the UK Environment Act 2021 (the 2021 Act). The amendment to section 80 means the air quality strategy must now be reviewed, and if appropriate modified, every five years.

3.99. After considering the consultation responses to the White Paper, we proposed that this review and publication should ideally occur within the first half of each Welsh Government's term in office to improve accountability. This would allow Ministers to have regard to and build upon each administration's Programme for Government, well-being objectives, Future Trends Report and National Natural Resources Policy. We are therefore proposing to strengthen the powers within the 1995 Act to ensure that Ministers must consult on each review and/or modification of the National Air Quality Strategy for Wales.

3.100. The amendments made to section 80 of the 1995 Act by the 2021 Act also removed the requirement for the strategy to cover all of Great Britain, therefore clarifying that the Welsh Ministers are responsible for publishing a National Air Quality Strategy for Wales. The Senedd agreed a legislative consent motion in relation to these provisions of the 2021 Act, which noted the provisions reflected the devolved nature of the provisions in section 80 of the 1995 Act.

3.101. In April 2023, the Welsh Government reviewed the 2007 strategy and replaced it with the Clean Air Plan for Wales, which now serves as the National Air Quality Strategy for Wales for the purposes of section 80 of the 1995 Act.

## **ii. Why change is needed**

3.102. For Wales, the National Air Quality Strategy five-year review duty now falls on the Welsh Ministers. The intention in the White Paper was to place an explicit duty on each incoming Welsh Government to publish a Clean Air Plan setting out, early in its term in office, actions within Welsh Ministers' competence which they and other public bodies intend to take in the next five years, against which they can be held to account. Due to the changes made in the 2021 Act, which were agreed by the Senedd through the Legislative Consent process, we have already achieved some of this aim as Welsh Ministers are under a duty to review the strategy, and modify if appropriate, every five years following an initial review in May 2023. However, the amendments made by the 2021 Act do not require Ministers to consult with public bodies and the public when reviewing the strategy, meaning there is less accountability than proposed in our White Paper.

3.103. Furthermore, Section 81A of the 1995 Act as amended places a duty on local authorities and county councils in England and "relevant public authorities" in England (meaning public authorities that are designated in regulations by the Secretary of State) to have regard to the Strategy when exercising any function of a public nature that could affect the quality of air. No such duty currently exists for public bodies in Wales.

3.104. Additionally, the five-year cycle is set out in the 2021 Act. At present, this does not allow flexibility to adapt to Senedd terms, which may or may not follow the five-year pattern. Aligning the duty to produce a National Air Quality Strategy to Senedd terms gives the proposal coherence and purpose in a Welsh political context. It means Ministers would be able to consider meaningfully wider environmental reporting such as the State of Natural Resources Report and National Natural Resources Policy required by the Environment (Wales) Act 2016; and the Future Trends Report required by the WFGA.

### **iii. Policy Objectives**

3.105. Our policy objective is to ensure that each Welsh Government must set out their aims in relation to air quality policy in the first half of the Senedd term and to improve clarity and accountability. The Bill therefore amends Welsh Ministers' duty to review, and if appropriate modify, Wales' strategy for air quality every five years so that Welsh Ministers will be required to consult the public, as well as a list of specific bodies, each time it carries out a review.

3.106. The intention is to ensure clear priorities and opportunities are set for achieving clean air in Wales at a national level based on a comprehensive evidence base including not only air quality evidence but also wider environmental considerations such as transport infrastructure noise maps; the State of Natural Resources Report and National Natural Resources Policy required by the Environment (Wales) Act 2016; and the Future Trends Report required by the WFGA.

3.107. It is proposed to mirror the Section 81A duty, which applies to public bodies in England, so that local authorities in Wales and any relevant Welsh public authorities that are designated by Welsh Ministers in regulations must take account of the Clean Air Plan when carrying out relevant functions in Wales. It is envisaged that there will be discussion with any affected public body during the production of each new Clean Air Plan rather than any new policy being imposed without warning.

3.108. When considering this section, it is also useful to consider the noise and soundscape section of the Bill as the policy intention is to ensure that the links between noise and air pollution are recognised and where appropriate action is taken together to prevent both noise and air pollution.

#### **iv. Purpose of the Legislation**

- 3.109. The purpose of the legislation is to strengthen existing duties in the Environment Act 1995 as amended by the 2021 Act to ensure that Welsh Ministers must set out their aims in relation to air quality in the first half of each new Senedd term. To that end, the Bill makes a number of amendments to the 1995 Act.
- 3.110. Section 80 of the 1995 Act is amended to allow Welsh Ministers to make regulations to amend the periods within which they must review the National Air Quality Strategy. This is to allow flexibility to respond to an extraordinary Senedd election. To ensure proper scrutiny of any changes to the review period, these regulations must be approved by the Senedd.
- 3.111. Section 80 is also amended to require Welsh Ministers to consult: Natural Resources Wales (NRW); local authorities in Wales, , Local Health Boards, NHS Trusts, public services boards (within the meaning of Part 4 of the Well-being of Future Generations (Wales) Act 2015, the Future Generations Commissioner for Wales and the public. This is to ensure that each incoming Welsh Government is required to consult on their aims and intentions in relation air quality policy. The consultation requirements applying to the air quality strategy for England do not apply to the Welsh strategy.
- 3.112. It is proposed to mirror the duty in Section 81A of the 1995 Act, which applies to public bodies in England, so local authorities in Wales must take account of the national air quality strategy when carrying out relevant functions in Wales. Again mirroring the approach in section 81A, the Bill provides the Welsh Ministers with a power to make regulations to designate relevant Welsh public authorities who must have regard to the strategy. To be so designated a body must meet the definition of “devolved Welsh authority” within the meaning of section 157(1)(a) of GoWA. This means a person can only be designated if they are a public authority (i) whose functions are exercisable only in relation to Wales, and (ii) are wholly or mainly functions that do not relate to reserved matters. Public authority is defined in section 157(A)(8) as “a body, office or holder of an office that has functions of a public nature”.
- 3.113. Taking such a regulation making power means that there is significant scope for Welsh Ministers, where necessary, to add to the bodies that must have regard to the strategy. The Bill provides that before designating a person or body, they must consult with that person or body and such other persons they consider appropriate.
- 3.114. These amendments alongside the noise and soundscape section of the Bill allow flexibility for Ministers to consider air quality and noise together and, if desired, publish a single strategy covering both the national air quality strategy and the national soundscapes strategy.



**v. How the legislation enables sectors to operate more efficiently**

- 3.115. This legislation requires Ministers to publish and consult on their position and intentions on air quality whilst giving the opportunity to consider environmental reporting such as the State of Natural Resources Report and the Future Trends Report. This encourages joined up working in line with the WFGA.
- 3.116. The duty to consult specified public bodies and the public will ensure efficiency and joined-up policy-making resulting in better outcomes, transparency and accountability.
- 3.117. The requirements for local authorities (and any other relevant Welsh public authorities that are designated in regulations) to have regard to the strategy will give policy clarity to public bodies with air quality, and noise, responsibilities and wider stakeholders.
- 3.118. The legislation also provides flexibility for Welsh Ministers to amend the time-period in which an air quality strategy must be published in response to Senedd terms, giving the duty coherence and purpose in a Welsh political context.
- 3.119. Welsh Ministers will publish an annual update report on progress towards the delivery of actions in the National Air Quality Strategy.

**vi. Risk if legislation is not made**

- 3.120. If this legislation were not made, then the existing duty to review and if appropriate modify the air quality strategy would not reflect the needs and requirements of Wales.
- 3.121. The existing National Air Quality Strategy review duty would not always require each new Welsh Government to publish and consult on the actions it intends to take in a new Clean Air Plan. The 1995 Act strategy review deadlines would continue to be relative to a fixed point in time rather than the most recent Senedd election. There would be no explicit duty on local authorities in Wales to take account of the strategy, or modifications to it, in the things that they do.

## **Air Quality Regulations**

### **i. Background**

3.122. Part IV of the 1995 Act requires the Welsh Ministers to publish a national air quality strategy and established the system for local air quality management for the designation of air quality management areas.

3.123. Section 87 of the Environment Act 1995 contains general provisions that apply to regulations that are made for the purposes of Part IV of that Act.

3.124. Section 87(7) prescribes whom must be consulted when the Welsh Ministers make regulations for the purposes of Part IV of that Act.

3.125. Section 14 of the Bill updates the consultation requirements that apply to regulations made under Part IV.

### **ii. Why change is needed**

3.126. Section 87(7) has remained largely unchanged since the Environment Act 1995 received Royal Assent, almost 28 years ago. It is no longer reflective of best practice in relation to consultation. For example, it does not require the public to be consulted about regulations made under Part IV.

### **iii. Policy objectives**

3.127. The policy objective is to update section 87(7) to make it more reflective of the way that Welsh Ministers currently consult on proposed Regulations.

#### iv. Purpose of the legislation

3.128. Section 14 of the Bill disapplies the existing section 87(7) of the 1995 Act in relation to Wales. It replaces it, in relation to Wales, with a new subsection (7B).

3.129. The current subsection (7) provides that when making regulations in relation to Part IV of the 1995 Act, the Welsh Ministers must consult:

- a) the appropriate agency which, in accordance with section 91(1) of the 1995 Act, means, in relation to Wales, Natural Resources Wales.
- b) such bodies or persons appearing to him to be representative of the interests of local government as he may consider appropriate;
- c) such bodies or persons appearing to him to be representative of the interests of industry as he may consider appropriate; and
- d) such other bodies or persons as he may consider appropriate.

Therefore, there is only an absolute requirement to consult with NRW. The Welsh Ministers have discretion in relation to whom to consult in relation to subsections (7)(b) to (d).

3.130. The new subsection (7B) that is inserted by the Bill, places a **duty** on Welsh Ministers to consult with all of the following before making regulations under Part IV of the 1995 Act:

- a) the Natural Resources Body for Wales;
- b) every local authority in Wales;
- c) the Public Health Wales National Health Service Trust;
- d) every local health board in Wales; and
- e) the public.

3.131. It is considered appropriate to formally strengthen the consultation requirements, in particular to include a requirement for full public consultation, to reflect the importance of and public interest in the types of regulations that may be made under Part IV. Such regulations include: regulations relating to air quality; local air quality management and regulations relating to stationary idling.

**v. How the legislation enables sectors to operate more efficiently**

3.132. The amendment made by section 14, aligns the consultation requirements for regulations made under Part IV of the 1995 Act with the consultation requirements that are set out in the Bill under section 12, consultation on review of the national air quality strategy and section 24(5), consultation on preparation or review of the national strategy on soundscapes.

3.133. Updating the consultation requirements to require the Welsh Ministers to conduct a full public consultation in relation to regulations made under Part IV of the 1995 Act also ensures the fullest possible consultation is undertaken in relation to regulations made under Part IV which should result in the Senedd passing better legislation.

**vi. Risk if legislation is not made**

3.134. If the amendments in section 14 are not made, the consultation requirements placed on the Welsh Ministers under section 87(7) of the 2015 Act will remain as currently drafted. The consultation requirements for Part IV would also be inconsistent with what is proposed in relation to consultation requirements for review of the national air quality strategy and the preparation and review of the national strategy on soundscapes.

# Local Air Quality Management (LAQM)

## i. Background

3.135. Under Part IV of the Environment Act 1995 (the 1995 Act), local authorities tackle air quality issues at a local level through the Local Air Quality Management process (LAQM). LAQM requires local authorities to review and assess air quality, producing action plans where air quality is found to be at risk of exceeding pollutant objectives.

3.136. Assessment of air quality is focused on locations where members of the public are regularly present and where there is exposure to the pollutant in question over the timescale for which the air quality objective is defined. Local authorities are legally obliged to demonstrate that they are doing everything reasonably possible to work towards the legal objective values.

3.137. Local authorities produce Annual Progress Reports and upon declaring an Air Quality Management Area (AQMA) must develop an Air Quality Action Plan (AQAP) within a designated timescale. The Welsh Government issued revised LAQM policy [guidance](#) in 2017 which supports local authorities in carrying out their duties. There is also technical [guidance](#) (2022) which is published on a UK basis with Welsh specific guidance included.

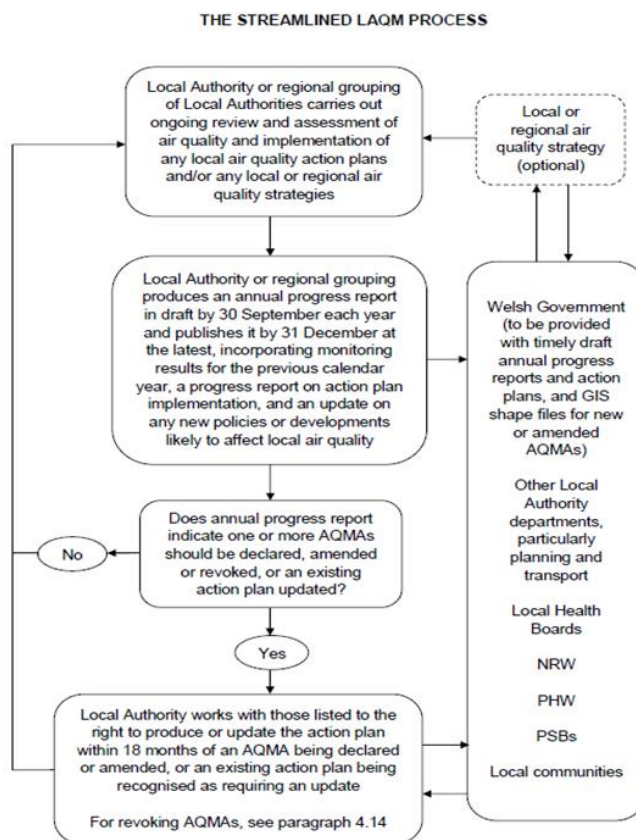


Figure 1. Current LAQM Process (from WG policy guidance 2017)

## ii. Why change is needed

3.138. Academic research (such as [Brunt et al 2016](#), [Barnes et al 2018](#) and [Brunt and Jones 2019](#) and unpublished research submitted to Welsh Government by Swansea University (Seller 2019)) has indicated that the LAQM regime in Wales is not operating as effectively as it could and highlights the need for a more proactive, preventative and public health focussed approach. These findings align with recent assessments of LAQM in [England](#), [Scotland](#) and [Northern Ireland](#) as well as issues raised to the Welsh Government by local authorities, third sector organisations and the public verbally and through [consultation responses](#).

3.139. At the time of writing there are 44 [AQMAs](#) across Wales, the majority of which have been in place for over 5 years despite the development of action plans and efforts to reduce concentrations. This is due to a variety of factors including:

- the current LAQM legislative framework is vague and does not reflect the increased expectations and ambition regarding local air quality;
- local authorities do not hold all of the required levers to address air quality issues (e.g. problems are connected to major transport routes); and
- financial and staff resource constraints in local authority environmental health teams.

3.140. Through the Bill we want to enhance the LAQM legislation to ensure the regime is more effective at improving local air quality. This new legislative framework will be supported by updated guidance, new funding and collaborative working arrangements to support local authorities. Our aim is that through combined legislative and policy changes, LAQM should become preventative, proactive and focussed on achieving the best air quality practicable to protect the health of local communities and environments, rather than a primary focus on legislative compliance.

3.141. We recognise that local authorities have continuously worked to manage air quality in their areas. These changes are proposed to positively build on their efforts to date and provide the tools needed to ensure LAQM can deliver the new ambitions and expectations regarding local air quality.

## iii. Policy Objectives

3.142. To deliver the required change outlined above, we propose to amend the LAQM legislative framework set out in Part IV of the 1995 Act by strengthening and clarifying wording regarding existing duties. We will do this by mirroring the changes in England brought in through the Environment Act 2021 which clarify what is expected of local

authorities in relation to sections 82 – 85 of the 1995 Act. We are also proposing to introduce two further amendments of the legislative framework:

- Introduce a clearer requirement on local authorities to undertake an annual review of air quality.
- Introduce a requirement that AQAPs must contain a projected compliance date that must be agreed with Welsh Ministers.

These two amendments are explained in further detail below.

### **Introduce a clearer requirement on local authorities to undertake an annual review of air quality**

3.143. The 1995 Act requires local authorities to review air quality from ‘time to time’. This wording is vague and a clearer legislative framework is required to ensure proactive action can be taken.

3.144. Through the Bill, we are proposing to amend section 82 of the 1995 Act with a clear requirement that local authorities will review air quality in their area each calendar year. This will align with the existing Annual Progress Report process outlined in Figure 1 above.

### **Introduce a requirement that AQAPs must contain a projected compliance date that must be agreed with Welsh Ministers.**

3.145. Currently, local authorities are required to develop actions ‘in pursuit’ of compliance. These actions should be accompanied by implementation dates and timescales which make clear approximately when reductions in concentrations are expected to be achieved. Many local authorities develop a wide range of actions, but these can sometimes lack a clear implementation plan due to funding and resource constraints and/or due to pollution sources that they do not hold all the levers to address. The result is that AQMAs can remain in place for long periods of time.

3.146. The proposal to introduce a provision to section 83 of the 1995 Act requiring local authorities to include a projected compliance agreed with Welsh Ministers seeks to remedy these issues. Having identified effective actions to reduce concentrations with associated timescales, the local authority should be able to provide a projected compliance date in the AQAP.

3.147. Agreeing this projected compliance date with Welsh Ministers provides an assurance process and enables Welsh Ministers to consider if there are national levers that can be used to help the authority.

3.148. The Bill provisions make clear that once achieved, maintenance of compliant levels is required.

3.149. The 1995 Act contains powers of direction and the Bill amends these powers to include the ability for Welsh Ministers to issue a direction where a local authority has failed to implement action or achieve the projected compliance without good reason. These powers of direction are therefore intended to be used as a last resort and every effort will be made to support and work collaboratively with local authorities in undertaking this work.

3.150. Policy and technical guidance will be updated to support local authorities in delivering the new legislation. This will also include new working arrangements between Welsh Government and local authorities which will provide a mechanism to address issues affecting projected compliance dates.

#### **iv. Purpose of the Legislation**

3.151. The purpose of the legislation is to amend Part IV of the 1995 Act to clarify and strengthen local authority duties.

3.152. Section 82 is amended to make clear that every local authority in Wales must take a review of air quality which must also assess whether air quality standards and objectives are being achieved in each calendar year. This removes the ambiguity in the current legislation which requires assessments 'from time to time'.

3.153. Section 83 is amended to clarify local authorities' duties in regard to AQMAs and AQAPs. This section sets out requirements for the AQAP process, including development of a projected compliance date and submission of AQAPs for approval by Welsh Ministers.

3.154. Section 85 will be amended to outline that Welsh Ministers can issue a direction to local authorities should they fail to carry out AQAP measures by the date provided or where they have failed to achieve compliance by the projected date given.

#### **v. How the legislation enables sectors to operate more efficiently**

3.155. Local authorities do not currently hold all the levers they need to improve air quality in their areas. The new legislation will provide clear mechanisms for Welsh Government to support local authorities in improving local air quality. In particular, agreeing AQMA compliance dates with Welsh Ministers will facilitate a more collaborative approach to managing exceedances of legal objectives by ensuring consideration is given as to any Welsh Government levers that could be used to support local authorities.



**vi. Risk if legislation is not made**

3.156. Not amending the LAQM legislative framework would represent a missed opportunity to ensure the regime operates effectively to improve air quality. It is likely the status quo would be maintained and AQMAs would continue to be in place for long periods of time. Any changes to statutory guidance and increases in resources would be limited by the existing legislative framework which does not reflect new ambition and expectations regarding the management of local air quality.

# Smoke Control

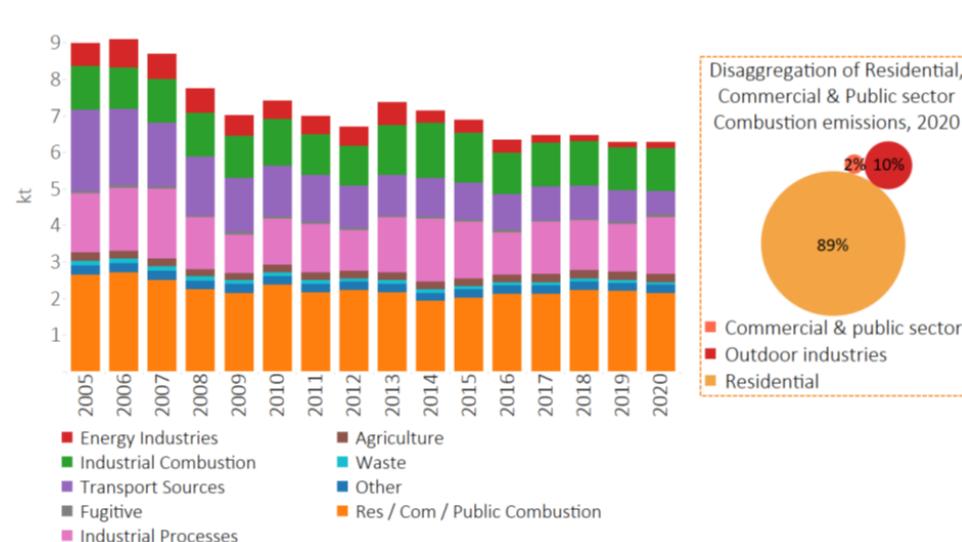
## i. Background

- 3.157. The Clean Air Act 1993 (CAA 1993) is the UK's main smoke control legislation and provides a framework for the control of pollution from domestic solid fuel burning.
- 3.158. The CAA 1993 aims to control emissions of smoke, grit, dust and fumes from a variety of sources, including industrial premises, furnaces and appliances and fuels used indoors, such as log burners, stoves, boilers, furnaces and fireplaces. It does this in part by making provision for the designation of smoke control areas (SCAs). Within a SCA, it is an offence to emit smoke from a chimney of a building (including domestic, residential or industrial premises) unless a fuel has been authorised for use or an appliance has been exempted for use in a SCA.
- 3.159. Schedule 12 of the Environment Act 2021 amended Part III of the CAA 1993 (Schedule 1A to the CAA 1993), in relation to England only, whereby civil monetary penalties replace criminal sanctions where smoke is emitted from a chimney within a SCA.
- 3.160. Currently, there are SCAs across four local authorities, Flintshire, Newport, Swansea and Wrexham.
- 3.161. We anticipate an increase in domestic wood burning as a result of the current energy crisis. The Stove Industry Alliance has [reported](#) a UK-wide 40% increase on sales of wood burning stoves in the second quarter of 2022 (April to June) compared to the same period last year. Strengthening smoke control legislation and supporting this with advice to ensure new and current users are burning in the most efficient way will help to reduce the impact of this increase.

## ii. Why change is needed

- 3.162. The Welsh Government needs to take action to reduce emissions. The Clean Air Plan for Wales: Healthy Air, Healthy Wales commits to a 10-year pathway to achieving cleaner air. The Welsh Government also has to meet current UK-wide legally binding emission reduction targets, including PM<sub>2.5</sub>, and be ready to meet any future emission reduction targets set by Welsh Ministers.
- 3.163. According to the Air Pollutant Inventories for England, Scotland, Wales and Northern Ireland: 2005-2020 [report](#), domestic and commercial burning of solid fuels is estimated to be the largest source of PM<sub>2.5</sub> in Wales and is attributed, in part, to the rise in the number of wood-burning stoves being installed in homes throughout the country. See figure below.

**Figure 2 - PM<sub>2.5</sub> Emissions in Wales**



3.164. Amending the regime for smoke control which includes the removal of the defences that hinder enforcement will facilitate quicker intervention by local authorities to tackle smoke emitted within their SCAs. Civil monetary penalties will provide a more proportionate and effective sanction and will be combined with statutory guidance and effective behavioural change messaging to reduce the levels of emissions. A Welsh Government [review](#) of civil sanctions for environmental offences in 2015 reported the use of civil sanctions deterred non-compliance, provided an effective and fair way of enforcement, reducing risks of environmental harm and preventing harm from occurring or continuing.

### iii. Policy Objectives

3.165. The Welsh Government's objective is to improve the use and implementation of smoke control legislation to reduce air pollution for the benefit of current and future generations.

3.166. We propose to do this in three ways:

- replace the current criminal offence of emitting smoke from a chimney in a SCA with a civil sanctions' regime. This includes the removal of the defences that hinder enforcement;
- provide smoke control guidance to local authorities; and
- remove certain adaptation costs that may prevent future smoke control areas being established.

- 3.167. The Bill will introduce civil monetary penalties to replace the current criminal sanctions in relation to the emission of smoke in a SCA, which can be levied by local authorities. We also propose to remove the defences (i.e. the use of an exempt appliance or an authorised fuel) which are preventing local authorities from tackling domestic burning.
- 3.168. The existing criminal sanctions are difficult to administer and rarely result in prosecution. Local authorities do not have the power to enter properties so are often unable to gather sufficient evidence. The civil sanctions regime will provide a more proportionate and effective sanction than the current criminal one, to seek out and address air quality issues in the soonest possible time. Criminal offences would remain applicable to the other provisions under Part III of the CAA 1993. This new provision will mirror the effect of Schedule 1A to the CAA 1993, which currently applies in relation to England.
- 3.169. By making it easier for local authorities to enforce SCAs, we anticipate instances of breaches will become rarer, with officers explaining how breaches occur, encouraging behaviour change, and ultimately issuing monetary penalties where appropriate. It is hoped that this advice-led approach will lead to compliance without the need for a financial penalty, though this option will be available to local authorities if advice is not followed.
- 3.170. The Bill removes the provision for reimbursement of adaptation costs for pre-1964 homes when a new smoke control area is created, or an existing smoke control area is amended. These costs are deemed a barrier within the legislation to extending smoke control areas across Wales and could lead to significant financial and administrative burden for local authorities.
- 3.171. In contrast to other available schemes relating to heating, energy and fuel support for households, this provision does not allow criteria to be applied (such as means testing or appropriateness assessment). Keeping this provision could therefore result in the unintended consequences of public funds being used to support increased installation or replacement of solid fuel stoves where there are other forms of heating available. This could have a knock-on effect of increasing emissions.
- 3.172. The decision whether to create a new smoke control area is best placed with the local authority, as part of their holistic approach to air quality management. They are aware of where their hotspots are and can take decisive action to improve air quality in these areas.
- 3.173. However, if the local authority is not taking appropriate action in a particularly problematic area to abate the pollution, the Welsh Ministers can intervene and direct them to create a smoke control area. Issuing a direction is a matter of last resort and the preferred approach will be to work collaboratively with the local authority.

3.174. The Bill will also introduce a requirement for local authorities to have regard to any guidance published by the Welsh Ministers in relation to local authority SCAs. Any guidance issued is likely to cover implementation of the new civil sanctions regime and the importance of raising awareness of the legislation and the impacts of poor burning practice to encourage better behaviour prior to resorting to the use of sanctions. Any guidance will be subject to consultation, enabling interested parties and local authorities impacted by any changes the opportunity to input. There will be a route to an appeals process for individuals to dispute any civil penalty.

#### **iv. Purpose of the Legislation**

3.175. The purpose of the smoke control provisions within the Bill is to make it easier for local authorities to tackle instances of smoke emissions in SCA to reduce air pollution for the benefit of current and future generations. This will be done through amendments to the CAA 1993.

3.176. Changes to the smoke control provisions under Part III of the CAA 1993 were inserted by the Schedule 12 of the Environment Act 2021, but these changes only applied to England. The proposals in this Bill will mirror a number of these provisions for Wales.

3.177. The main change brought forward in the Bill is the switch from criminal to civil sanctions for the offence of emitting smoke from a chimney of a building in a SCA. The CAA 1993 provides defences to prosecution, including the use of an exempt appliance or an authorised fuel, which make enforcement of smoke control extremely difficult. Local authorities do not have the power to enter a private dwelling where smoke has been emitted from the chimney and as such getting sufficient evidence is very difficult, thereby providing a barrier to enforcement. We propose to remove these defences, which will mirror the current provision in England.

3.178. The focus for local authorities will be on informing and encouraging behaviour change, with the issue of civil monetary penalties being a last resort. The penalties range from £175 to £300, which will mirror the current penalties in England.

3.179. Schedule 2 to the Clean Air Act 1993 provides for local authorities to reimburse owners or occupiers of old private dwellings in certain circumstances for expenditure incurred to avoid a contravention of section 20 of that Act. The Bill removes this provision, to encourage local authorities to establish new smoke control areas.

3.180. Provisions in paragraph 4 of Schedule 2 to the Clean Air Act 1993 which allow the Welsh Ministers to reimburse the local authority in certain circumstances are retained.

3.181. Guidance on smoke control will be issued to local authorities by the Welsh Ministers and may be reviewed periodically to allow for more flexibility.

3.182. The changes to smoke control legislation are captured within sections 18 – 20 of the Bill as set out below.

3.183. Section 18: Regulation of smoke and fuel in SCAs. This inserts sections 19E – 19H into the CAA 1993 (which replace the repealed sections 20-23). Sections 19A – 19D which apply to England, will directly precede the Wales-specific new sections, providing better clarity with the statute-book.

- 19E Penalty for emission of smoke in SCAs in Wales. This restates section 20 of the CAA 1993, making Schedule 1A apply to Wales (new Schedule 1 - see below - details the specific changes).
- 19F Acquisition and sale of unauthorised fuel: Wales. This restates section 23 of the CAA 1993, with modifications that are necessary to accommodate the move to a system of civil penalties to regulate the emission of smoke.
- 19G Interpretation. This interprets the meaning of 'exempt fireplace' and 'authorised fuel'.
- 19H Exemptions relating to particular areas in Wales. This restates section 22 of the CAA 1993.

3.184. Section 19: Guidance for local authorities in relation to SCAs. Through the Environment Act 2021, the UK Government inserted a new section 28A into the CAA 1993 for local authorities to have due regard to any guidance produced by the SoS, but this section only applied in relation to England. A similar approach is proposed for Wales and this provision will amend Part III of the CAA 1993 to require local authorities in Wales to have a duty to have regard to any guidance issued by the Welsh Ministers.

3.185. Section 20: Further provision relating to smoke control. This section inserts Schedule 1 into the CAA 1993 making provision for Wales in relation to financial penalties including the removal of defences and repeals the relevant sections mentioned above.

## **v. How the legislation enables sectors to operate more efficiently**

3.186. Local authorities are responsible for enforcing the legislation and anecdotal evidence has shown that this is difficult to achieve in practice and households and businesses within a SCA are often unaware of the legislation.

3.187. In addition, we do not consider the use of criminal sanctions to be a proportionate and effective sanction in relation to the emission of smoke by business and householders in a SCA. This has led to very low levels of enforcement, with burning of solid fuels left to flow unchecked, negatively impacting the air quality within the local area. A Welsh Government [review](#) of civil sanctions for environmental offences in 2015 reported they deterred non-compliance, provided an effective and fair way of enforcement, reducing risks of environmental harm and prevent harm from occurring or continuing. Criminal sanctions will be replaced with a type of civil sanctions (monetary penalties) in relation to the emission of smoke from businesses and households in a SCA.

3.188. Civil monetary penalties, to replace the current criminal offences, will be able to be levied by local authorities where smoke is emitted from a chimney within a SCA, but this will be the last resort available, for example where there is non-compliance. The amount will be determined by the local authority, but within a range of between £175 and £300. Local authorities will be expected to explore a range of options, including education, sharing of best practice and other behavioural change tools, before resorting to the use of monetary penalties.

3.189. A significant barrier for local authorities in creating new smoke control areas is the reimbursement of adaptation costs for pre-1964 homes. By removing the potential risk of incurring these costs, local authorities may be more inclined to use this legislation as a vehicle to improve local air quality in their vicinity.

3.190. New guidance will provide support to local authorities in implementing the new legislative framework, considering the role of SCAs as part of their approach to managing local air quality and working with communities to implement best practice.

## vi. **Risk if legislation is not made**

3.191. Maintaining the status quo of the current legislative framework is likely to mean that there is no improvement to local authorities' ability to tackle the problem of smoke being emitted from a chimney in a SCA. This means that smoke from businesses and households within SCAs could contribute to poor air quality in the local area.

3.192. Should the adaptation costs for pre-1964 homes be retained, the cost burden on society and the negative impact on air quality could increase.

3.193. Benefits to the environment, nature and human health by reducing the risk of ecosystem, climate and [human health problems](#) resulting from polluting smoke have been well documented. Missing an

opportunity to strengthen the smoke control regime could contribute to an increase in the level of health and social costs associated with poor air quality.



## Vehicle Emissions: Trunk Road Charging Schemes.

### i. Background

3.194. Clean Air Zones (CAZs), or Low Emission Zones (LEZs) as they may also be referred to, provide a substantial means to help deliver our ambition to tackle poor air quality for the benefit of human and environmental health. They also support the achievement of air quality targets and limits. In a charging CAZ, some drivers are charged a fee to enter a defined area if their vehicle does not meet stipulated emissions standards. Such schemes may be introduced to tackle high levels of air pollution, supporting behaviour-change and discouraging the use of dirtier vehicles. A number of English towns and cities have introduced charging CAZs to tackle exceedance of statutory limits for nitrogen dioxide (NO<sub>2</sub>).

3.195. In 2018 Welsh Government consulted on a Clean Air Zone Framework for Wales. The draft Framework detailed the range of matters to be considered by local authorities when considering a CAZ. The Framework describes a CAZ as “A geographical target area where a range of co-ordinated actions are applied with the purpose of ensuring, in the soonest time possible, a significant reduction in public and environmental exposure to harmful airborne pollutants from all sources.” Road traffic has been identified as a significant source of a number of air pollutants. Therefore, at its core, a CAZ would be expected to be built around traffic access restrictions, either by the imposition of a complete ban on older, dirtier, vehicles, or by still allowing all vehicles to enter a CAZ but charging the drivers of all but the cleanest vehicles.

3.196. The [Air Quality Standards \(Wales\) Regulations 2010](#), sets legally binding limit values for a number of key pollutants in air. In Wales we have been failing to meet limits for NO<sub>2</sub> around a number of roads.

3.197. Our supplemental Plan to the UK plan for [tackling roadside NO<sub>2</sub> concentrations 2017](#) describes the extent of the problem in Wales, and the actions we are taking to ensure compliance in the soonest time possible. This includes consideration of CAZs where they have the potential to achieve the legal requirement. These have not, to date, been identified as action plan measures to achieve legal compliance at any location in Wales. However, there are Precautionary Retained Measures at M4 Newport J25-J26 and A470 Upper Boat-Pontypridd where the primary measures are reduced (50mph) speed limits. Should the reduced speed limits fail to ensure sustained, long-term compliance, then CAZs will be considered at these locations. However, there are currently no plans to introduce such schemes on Welsh roads.

- 3.198. [Annual average data](#) at the above locations has shown that levels were compliant (using national bias adjustment factors) with limit values during 2020 and 2021. However, traffic levels were depressed as a result of the Covid pandemic, and there remains some uncertainty about future traffic increases and the impact this may have on NO<sub>2</sub> roadside concentrations.
- 3.199. UK government [analysis](#) identified CAZs that include charging as the measure it is able to model nationally that will achieve statutory NO<sub>2</sub> limit values in towns and cities in the shortest possible time. The draft [National Transport Delivery Plan](#) states; “we will consider existing powers to introduce road user charging to ensure these can be fully deployed where there is a case to do so, such as where evidence shows a Clean Air Zone would be the most effective means of tackling air pollution problems.”

## ii. Why change is needed

- 3.200. It is essential for Ministers to have an effective range of powers to tackle road traffic pollution. [Llwybr Newydd](#), the Wales Transport Strategy 2021, set a clear path to place people and climate change at the front and centre of our transport system. The Strategy reflects the need for an accessible, sustainable and efficient transport system. Three key priorities are identified. These are:
- reducing the need to travel;
  - ensuring accessible sustainable and efficient transport services and infrastructure; and
  - encouraging take up of sustainable transport alternatives.
- 3.201. One of the well-being ambitions of the Strategy is to “improve air quality and reduce environmental noise associated with transport”. It is recognised that “fair and equitable road user charging” can have a part to play in encouraging people to “change their travel behaviour to use low-carbon, sustainable transport”. Our Clean Air Plan for Wales: Healthy Air, Healthy Wales, notes that “Demand management measures can help tackle congestion, reduce polluting emissions, and support modal shift to active travel and public transport alternatives.”
- 3.202. Although powers exist to introduce road user charging schemes in Wales, through Part III of the Transport Act 2000, these do not currently allow Ministers to introduce CAZs on trunk roads. They only allow for trunk road charging schemes to be introduced where:
- the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length; or
  - where a local traffic authority has requested Welsh Ministers to make the trunk road charging scheme in connection with a charging scheme proposed by them.

3.203. It is proposed to utilise the Bill to address this by expanding the circumstances under which a trunk road charging scheme may be introduced. This will enable trunk road schemes to address air quality hot spots, allowing equivalence with local authority powers. It is also proposed that income raised through such schemes will be available for use on a broader range of measures not restricted to transport policies or proposals. This can further support air quality improvement and compliance with statutory limits and targets.

### **iii. Policy Objectives**

3.204. Our policy objective is to give Welsh Ministers strengthened powers to tackle poor air quality in the vicinity of trunk roads. This will benefit road users, those who live, work, attend school or otherwise spend time close to roads which are subject to the new power. There would also be benefits to the natural environment because of lower emission levels.

3.205. Current powers are too limited and do not enable the Welsh Ministers to take targeted action, where required, to reduce air pollution levels caused by trunk road vehicle emissions (i.e. a charging Clean Air Zone).

3.206. The policy objective is to give Welsh Ministers the power to take substantial action to address air pollution hotspots on the trunk road network where evidence shows a CAZ would be the most effective measure to deliver urgent reductions in polluting emissions on roads. This would address a significant gap in the Welsh Ministers' current legislative powers, bringing about a comparability with local traffic authority powers.

3.207. One of the principal policy objectives for these provisions in the Bill, is to also address the current restriction on the use of net proceeds raised from charging schemes which is currently "available only for application for the purpose of directly or indirectly facilitating the achievement of any policies or proposals relating to transport." This restriction could unduly limit the range of measures that could be taken to tackle the causes of high roadside concentrations at hotspot locations. To ensure a wide range of measures may be supported through charges, the restriction will not be applied to schemes for reducing air pollution. This will enable investments in a much broader range of measures, including air quality improvement measures that aren't necessarily linked to transport. In this way Ministers can choose to target funding towards measures that will directly address the source of high pollutant concentrations at specific locations, thereby reducing, and ultimately removing, the need for the CAZ over time.

3.208. To support a focus on air quality improvement when determining budget allocations, Ministers will be required to lay a statement before the Senedd to include an estimate of net proceeds, how it is proposed proceeds will be applied, and the expected effect on air quality of these proposals. When considering the effect on air quality, this should include the potential of measures to improve access to sustainable transport modes which can improve air quality by reducing polluting vehicle emissions. For example, by increasing active travel opportunities to provide travellers with real choices which can help them travel more sustainably.

3.209. It will be important to demonstrate that trunk road charging schemes with an air quality purpose would be 'charges and benefits' packages which can deliver improvements that bring tangible benefits to the public.

#### **iv. Purpose of the Legislation**

3.210. The purpose of the Bill's provisions is to expand the circumstances in which Welsh Ministers may create trunk road charging schemes, in order to improve air quality in the vicinity of trunk roads.

3.211. It does this by creating new, expanded powers for the Welsh Ministers to set up such schemes.

3.212. As set out in paragraph 3.178, under section 167 of the Transport Act 2000, as currently drafted, the Welsh Ministers may only establish a charging scheme on a trunk road where:

- the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length; or
- where a local traffic authority has requested Welsh Ministers to make the trunk road charging scheme in connection with a charging scheme proposed by them.

3.213. The Bill includes a new provision at section 21(2)(b) which amends section 167 of the Transport Act and enables the Welsh Ministers to establish a scheme for the "purpose of reducing or limiting air pollution in the vicinity of the trunk road" to which the scheme will apply".

3.214. The Bill also makes provisions in respect of the use of net proceeds (i.e. the money that is left after the costs of operating a charging scheme are deducted from revenue raised) for schemes made wholly, or partly, for air quality purposes. In accordance with paragraph 14 of Schedule 12 to the Transport Act 2000, as inserted by paragraph 6 of Schedule 2 to the Bill, the net proceeds from a CAZ scheme will not be restricted to transport policies and proposals, but may be applied more widely. Provisions in the Bill require Ministers to lay a statement in the Senedd to set out the projected monetary value of net proceeds and also how it is intended these will be spent. The Bill further requires an

assessment is made of the expected impact (if any) on air quality for each measure proposed for funding.

3.215. Although there are currently no commitments to introduce CAZs anywhere in Wales, a number have been introduced, and are in the pipeline, in English towns and cities. These schemes have been introduced because they have been modelled to demonstrate they can deliver significant reductions in polluting vehicle emissions and help to address non-compliance with statutory NO<sub>2</sub> limits. National-scale modelling undertaken by Defra identified CAZs that include charging as the measure which will achieve statutory NO<sub>2</sub> limit values in towns and cities in the shortest time possible. To date, action to deliver compliance with these limits in Wales has not included charging CAZs, but this may change in the future.

3.216. Our policy approach to road user charging has been described in Wales Transport Strategy, and also in our draft National Transport Delivery Plan (NTDP). The latter notes the potential of road user charging to; “deliver modal-shift, address carbon targets and support investment in sustainable transport”. The NTDP commits to; “Further work... to develop a fair and equitable road user charging framework, including how local authorities can borrow against these future revenue streams to fund transport improvements; and also consider other alternatives such as workplace car parking levies and road space reallocation.”

**v. How the legislation enables sectors to operate more efficiently**

3.217. The legislative changes will create a more equal range of powers to introduce charging schemes on both local roads and trunk roads to tackle air quality hot spots.

3.218. To complement the new provisions, guidance will be published setting out our expectations around the use of available powers to introduce CAZs on both local roads and trunk roads. The guidance will help embed a level of consistency, ensuring clear expectations on the use of powers across the country in line with our clean air and sustainable transport ambitions.

**vi. Risk if legislation is not made**

3.219. Without the legislation it will not be possible for Welsh Ministers to introduce CAZs on the trunk road network. This would mean a substantial tool for tackling air pollution hotspots would be unavailable on the trunk road network in contrast to local roads where existing powers allow for the creation of such schemes.

3.220. Alternative measures would need to be considered to tackle air pollution hot spots and there is a risk these would not be as effective in tackling traffic pollution. This means that the public could be exposed to higher concentrations for longer periods of time if mitigations are restricted to less effective measures.

## Vehicle Emissions: Stationary Idling Offence - Fixed Penalty Notices

### i. Background

- 3.221. Stationary vehicle engine idling contributes to emissions. The ill-effects of air pollution are well-documented and set out above.
- 3.222. Both government and academia have a long-standing interest in anti-idling interventions. Evidence suggests that road transport interventions need to be combined to achieve a greater impact in terms of improving air quality. Generally, the [evidence](#) points to interventions working better as a package of measures to tackle air pollution.
- 3.223. Specific anti-idling measures can be most effective if included in a package of different but complementary measures, all with the purpose of preventing or reducing air pollution. In this context, there can be potential for achieving cumulative reductions in emissions, over time, across a range of different measures applied in tandem. We know air pollution has a substantial impact on health and even where evidence of the effectiveness of an intervention cannot be exactly quantified with precise metrics, there are a wide range of interventions which, in combination, can reduce emissions, reduce people's exposure to air pollution and achieve consequent public health benefits. Given this, we intend to publish guidance outside of the Bill under section 88(1) of the Environment Act 1995 which will set out how anti-idling measures can be deployed as part of a package of complementary measures designed to improve air quality. The guidance will therefore serve to support and complement the Bill provision relating to vehicle idling.
- 3.224. The anti-idling regime applies to public highways. The current legislative framework governing emissions to air from idling vehicles is set out in part in the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003, which came into force on 1 May 2003. Both Scotland and England have their own corresponding regulations.
- 3.225. Regulation 12(1) of the 2003 Regulations enables a person who is authorised for that purpose by a local authority, who has reasonable cause to believe that the driver of a vehicle that is stationary on the road is committing a stationary idling offence, to require the driver to stop running the engine. In accordance with regulation 12(2) a person who fails to comply with a request to stop running the engine is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000).

3.226. A “stationary idling offence” is defined in regulation 2(1) of the 2003 Regulations as a contravention of, or failure to comply with so much of regulation 98 (stopping of engine when stationary) of the Road Vehicles (Construction and Use) Regulations 1986 (the 1986 Regulations) as relates to the prevention of exhaust emissions. The effect of regulation 98 of the 1986 Regulations is, subject to the exemptions listed in regulation 98(2), to require the driver of a stationary vehicle to turn off the engine to prevent unnecessary emissions.

3.227. Regulation 98(2) of the 1986 Regulations as amended sets out the circumstances where vehicles are permitted to be stationary with the engine running. For example:

- Where a vehicle is stationary owing to the necessities of traffic (when queuing, for example, at the traffic light);
- Where an engine is run so that a fault can be traced and rectified; or
- Where machinery on a vehicle requires the engine to be running (for the powering of refrigeration, for example, or compaction equipment on a refuse vehicle).

3.228. Regulation 7 of the 2003 Regulations provides that stationary idling offences are prescribed as fixed penalty offences. Regulation 13 permits an authorised person (which means an authorised officer of the local authority, or any other person authorised by the local authority) to issue a Fixed Penalty Notice (FPN) to the driver of a vehicle who has been guilty of vehicle idling on the public highway.

3.229. Regulation 8(b) prescribes the penalty at £20. Regulation 17(6) provides that a fine of £20 for a stationary idling offence increases from £20 to £40 if the fine has not been paid within the specified payment period or if the recipient has not given a notice requesting a hearing.

3.230. The person to whom a FPN has been issued may request a hearing. Also, a person issued with a FPN can apply to an appropriate authority (that is, a local authority) for a reduction or a waiver and obtain either one subject to meeting certain specified conditions. A court order can be issued to recover unpaid FPN as these are covered by the Enforcement of Road Traffic Debts Order 1993.

## **ii. Why change is needed**

3.231. The Welsh Government is of the view that the current fixed penalties regime does not provide sufficient deterrence to drivers of vehicles from engaging in stationary engine idling that has impacts on both air quality and noise.



3.232. Neither does the current fixed penalty charge of £20 make it financially viable for local authorities to carry out enforcement. While it is acknowledged that fines must be proportionate, the fixed penalty of £20 for stationary vehicle idling is very low. In response to the White Paper consultation on the Clean Air Bill, a local authority stated the current charges are not sufficient to deter people from idling nor do they make enforcing the current legislation financially viable. This implies that the current anti-idling regime does not provide incentives for active enforcement.

3.233. Currently, local authorities have no flexibility in the level of monetary penalty that they issue: if a fixed penalty is issued it must be in the sum of £20. This means that local authorities cannot choose a level of penalty to apply that is tailored to the circumstances of each individual case. Equally, local authorities cannot apply penalties from a higher range of penalties, particularly in relation to idling hotspots where vulnerable receptors (such as children) are being exposed to emissions or noise or in relation to instances of repeat offending.

### **iii. Policy Objectives**

3.234. Our primary aim is to enhance the deterrence provided by the current anti-idling penalties regime. We will do this by creating a power for the Welsh Ministers to specify in regulations a range (in terms of monetary value) within which local authorities will have discretion to set fixed penalties at a level of their choosing, depending on the circumstances in which the offence of stationary idling was committed. For example, local authorities may choose to apply penalties that are higher in the permissible range in cases where vulnerable groups are being exposed to idling emissions, for example, outside schools.

3.235. We want to minimise risk to vulnerable receptors by tackling unnecessary vehicle idling in idling hotspots, particularly in locations around schools; healthcare settings; and residential care homes. These are places where vulnerable receptors with pre-existing health conditions whose conditions can be exacerbated by air pollution are often found. Other “idling hotspots” may include major transport hubs in town or city centres.

3.236. The aim is that this will reduce emissions and improve air quality, particularly in areas where vehicle idling is known to be a problem and/or where vulnerable receptors may be exposed to emissions from idling vehicles.

3.237. The fixed penalties will apply strictly to vehicle idling and its impacts on emissions. However, there is an additional benefit as reducing instances of stationary vehicle idling will also result in benefit in terms of reducing noise and improving soundscapes. Noise can also be detrimental to health.

3.238. The World Health Organisation (WHO) has ranked transport noise as the second biggest environmental contributor to ill health in Western Europe after air pollution. The effects are primarily annoyance and sleep disturbance (with knock-on effects on learning and productivity) but also increased risk of hypertension and related outcomes (e.g. stroke) and cardiovascular disease. There is a small impact on length of life as well as the much bigger and more obvious effect on quality of life. Moreover, noise in learning and sleeping environments can adversely affect educational development, and certain groups such as people with autism or children with learning difficulties (or difficulties concentrating) are more likely to be affected than others.

3.239. The National Survey for Wales established that people living in the most deprived 20% of Wales are twice as likely to say they are regularly bothered by noise from outside their home as the least deprived 20%, though it must be noted this includes all forms of noise such as neighbour noise, not just transport noise.

#### **iv. Purpose of the Legislation**

3.240. Section 23 sets out the Bill's provisions in relation to anti-idling. Welsh Ministers already have a power to set a penalty of a prescribed amount for a stationary idling offence. Section 23(2)(a) amends section 87 of the Environment Act 1995 to give Welsh Ministers the power to make regulations that enable them to specify a monetary range within which a penalty must be set in relation to stationary idling offences.

3.241. Section 23(2)(b) provides that a stationary idling offence means an offence under section 42 of the Road Traffic Act 1988 that consists of a contravention of or a failure to comply with regulation 98 of the 1986 Regulations insofar as it relates to prevention of exhaust emissions.

3.242. The effect of regulation 98 of the 1986 Regulations is, subject to exemptions in regulation 98(2), to require the driver of a stationary vehicle to turn off the engine to prevent unnecessary emissions. Regulation 98 does not in itself constitute an offence. However, section 42 of the Road Traffic Act 1988 makes it an offence to contravene the 1986 Regulations but does not set a penalty. The Road Traffic Offenders Act 1988, particularly Part 1 of and Schedule 1 to that Act, list the offence under section 42 of the Road Traffic Act 1988 as triable summarily and punishable with a fine on level 3 (maximum £1,000).

3.243. Section 23(3) also makes technical amendments to Schedule 11 of the Environment Act 1995.

- 3.244. The change to the law that will be brought about by the Bill's provisions in this area relates solely to the Welsh Ministers' powers in relation to the setting of the amount of a fixed penalty. It does not change the law in any other way – including the elements that constitute the offence itself and the exemptions that apply to the offence. Further changes are not required to meet the policy objectives.
- 3.245. Utilising the new power in the Bill, it is intended to make Regulations that set a monetary range of penalties that local authorities could impose. Current thinking is the range could be set at not less than £40 and not more than £80. Those Regulations will be subject to a full public consultation and will be the subject of pre-consultation engagement with key stakeholders including local authorities to test these indicative amounts.
- 3.246. It is also the intention of the Welsh Ministers to issue guidance to local authorities using existing powers under section 88 of the Environment Act 1995. The guidance is not part of the Bill as such but will serve to complement and support this Bill provision. The Guidance, like the Regulations, will be subject to consultation, but it is anticipated the Guidance would cover matters such as advice to local authorities on administering the new regime. It is anticipated that local authorities would apply a FPN amount at the higher end of the range in more serious cases, for example in relation to identified 'idling hotspots' in the immediate vicinity of vulnerable receptors (near a school, healthcare setting or care home), or in hotspots with poor air quality, such as major transport hubs in town or city centres. Ultimately, it will be a matter for local authorities to make the decision as to the level at which to set FPNs in particular circumstances, having had regard to the guidance which will ensure consistency across Wales..
- 3.247. The guidance will also provide advice more broadly on the development and implementation of anti-idling strategies and approaches, including awareness-raising and behaviour change.
- 3.248. We expect to consult on draft regulations and guidance over the summer of 2024, with publication of the guidance to follow early 2025 alongside the coming into force of the regulations.
- 3.249. In line with the Promoting Awareness of Air Pollution duty, we will also roll-out a programme of communications, awareness-raising and education to bring about behaviour change to reduce instances of unnecessary vehicle idling. It is envisaged this will diminish the need for active enforcement, whilst still driving improvements in air quality.

**v. How the legislation enables sectors to operate more efficiently**

3.250. Anti-idling policy can be incorporated into a range of policies and behaviour change actions such as: Incorporation of anti-idling interventions into a broader package of measures to address air quality and noise, encouraging use of public transport and take-up of active travel; promoting the uptake of low emission vehicles; promoting No-Idling Zones in and around public premises that are particular hotspots for idling; creating electric vehicle charging infrastructure; promoting the use of cleaner fuels; using spatial planning policy as a way of reducing emissions and reducing exposure to air pollution; and encouraging behavioural change via public information campaigns etc.

3.251. [Evidence](#) suggests that specific anti-idling measures can be most effective if included in a package of different but complementary measures, all with the purpose of preventing or reducing air pollution. In this context, there can be potential for achieving cumulative reductions in emissions, over time, across a range of different measures applied in tandem both locally and nationally.

3.252. As stated above, the introduction of a monetary penalty range enhances the deterrent effect of the anti-idling regime and makes it more cost effective to enforce.

**vi. Risk if legislation is not made**

3.253. If no legislation is made, Welsh Government will forfeit the opportunity to enhance, re-emphasise and strengthen the current anti-idling regime. Consequently, there would remain in place a weaker, less robust anti-idling regime. This would weaken the policy of minimising risk to vulnerable receptors from the impacts of vehicle idling on air quality and noise/soundscape in idling hotspots, particularly young children in schools; those in residential/care homes; and those in healthcare settings.

# National Soundscapes Strategy, Strategic Noise Maps and Noise Action Plans

## i. Background

- 3.254. Concentrations of harmful substances and airborne sound waves are both attributes of people's local air environment.
- 3.255. Local air quality and airborne noise problems and their solutions are often closely linked. Transport, industrial, construction, domestic and commercial activities all generate both forms of airborne pollution, and broadly speaking the air and noise pollution so generated adversely affect the same human receptors, namely those who live their lives closest to the pollution sources, so that they have a combined overall acute and chronic effect on those people's health and well-being.
- 3.256. Proposed solutions to local air quality and noise problems are often common or linked. Often, interventions will have air quality and soundscape benefits, but sometimes what benefits one will worsen the other. It is increasingly accepted that air quality and airborne noise policies and plans should therefore be joined up, to achieve the best overall local health outcomes. This is consistent with the ways of working in the WFGA, which include policy integration.
- 3.257. Air and noise pollution have been ranked by the World Health Organisation (WHO) as the top two environmental contributors to ill health in Western Europe. However, the health evidence and EU legislation (notably Directive 2002/49/EC) on airborne environmental noise have historically lagged several years behind those for air quality (e.g. Directive 96/62/EC), resulting in separate EU legislative frameworks which are not linked in any way, in contrast with how the physical phenomena and potential interventions are closely intertwined in the real world.
- 3.258. Despite the lack of connection in EU legislative frameworks, Welsh Ministers recognised the close relationship between air and airborne noise pollution in policy in 2012, when they issued guidance to local authorities under Part IV of the Environment Act 1995 (Local Air Quality Management Policy Guidance for Wales Addendum: Air quality and traffic noise). This guidance requiring consideration of noise in local air quality plans has since been subsumed into the main [LAQM policy guidance document for Wales](#) in 2017.

- 3.259. A chapter on integrating noise and air quality policy was included in Wales' [Noise and Soundscape Action Plan \(NSAP\) 2018-2023](#). It states wherever air and noise pollution are both present and their sources are the same or related, they should be considered together rather than as separate problems. Air and noise pollution are both airborne pollutants, which can have a combined effect on the public's health, and in many situations they can be tackled to greatest effect through shared solutions.
- 3.260. The body of the Plan contained the following commitment: "By defining environmental noise as an airborne pollutant within its Clean Air Programme, the Welsh Government will create and pursue any opportunities to further align noise/soundscape and air quality policy and regulation in Wales over the course of the next five years, in order to achieve multiple benefits from our actions."
- 3.261. Planning Policy Wales 2018 brought air quality, noise and soundscape planning policy together in a shared chapter for the first time. In 2019 the Welsh Government commissioned an external [review](#) of the synergies and conflicts between air quality and noise, which recommended greater alignment and integration of air quality and noise action planning. The NSAP 2018-2023 and Wales' 2020 Clean Air Plan both contained a commitment to replace Technical Advice Note (TAN) 11: Noise (1997) with a new integrated TAN covering air quality, noise and soundscape. This has now been published in its [draft form](#).
- 3.262. Soundscape is formally defined in BS ISO 12913-1:2014 as follows: The soundscape is the acoustic environment as perceived or experienced and/or understood by a person or people, in context. In this definition, the acoustic environment means the sound at the receiver from all sound sources as modified by the environment, while sound sources refers to sounds generated by nature or human activity.

## **ii. Why change is needed**

3.263. The White Paper for the Clean Air Bill proposed a duty on Welsh Ministers to review and publish the Clean Air Plan every five years. Welsh Ministers already have a duty to review and publish noise action plans for major roads, major railways and agglomerations every five years under the Environmental Noise (Wales) Regulations 2006, which transpose Directive 2002/49/EC. In refining the White Paper proposal in line with the 2018 commitment to “create and pursue any opportunities to further align noise/soundscape and air quality policy and regulation in Wales”, there was an opportunity within the Bill to maintain all these five-year Plans’ review cycles at a sensible point in the Senedd electoral cycle. This is combined with an expectation that they will have regard to other elements of the Welsh statute book that run (normally) on five-year cycles, such as the State of Natural Resources Report, Future Trends Report and National Natural Resources Policy.

3.264. It is also an opportunity to supplement Welsh Ministers’ existing statutory duties under retained EU law to produce very narrow and specific noise action plans with a broader duty to issue a single comprehensive five-year plan or strategy for soundscape. This is in line with the holistic approach taken voluntarily by the Welsh Government when implementing its specific noise action planning duties in 2013, 2018 and 2023.

## **iii. Policy Objectives**

3.265. The Bill will supplement the Welsh Ministers’ duty under the Environmental Noise (Wales) Regulations 2006 to produce noise action plans just for major roads, major railways and agglomerations with a broader duty for each Welsh Government to produce a comprehensive plan or strategy for noise and soundscape. This would be informed in part by the strategic noise maps produced under the 2006 Regulations, but it would also cover other major forms of airborne noise and the whole of Wales. This would be consistent with how the Welsh Ministers have chosen to discharge their EU noise action planning duties in 2013, 2018 and 2023 and mirror the proposed requirements for producing a five-year Clean Air Plan.

- 3.266. The following proposals are expected to closely mirror those proposed for the Clean Air Plan:
- A regulation-making power to adjust the five-year cycles for strategic noise maps, noise action plans and the overarching plan or strategy for noise and soundscape in the event of an extraordinary election;
  - a duty on Welsh Ministers to consult the public whenever they review the overarching plan or strategy; and
  - a duty on public bodies to take the overarching plan or strategy into account when exercising their functions.

3.267. The intention is to:

- Ensure clear priorities and opportunities are set for achieving appropriate soundscapes in Wales at a national level based on a comprehensive evidence base including, not only noise and soundscape evidence, but also wider environmental considerations such as air quality data; the State of Natural Resources Report and National Natural Resources Policy required by the Environment (Wales) Act 2016; and the Future Trends Report required by the WFGA;
- Ensure that the noise and soundscape policies and commitments of each incoming Welsh Government are clearly stated and consulted upon, to improve clarity and accountability; and
- Give Ministers the option of producing a consolidated plan or strategy covering air quality, noise and soundscape.

#### **iv. Purpose of the Legislation**

3.268. The purpose of the legislation is to place a duty on Ministers to set out their intentions and policies in relation to noise and soundscape including the effective management of noise pollution taking into consideration scientific knowledge and strategic noise maps. Welsh Ministers must also consult: Natural Resources Wales (NRW); local authorities in Wales, Local Health Boards, NHS Trusts, public services boards (within the meaning of Part 4 of the Well-being of Future Generations (Wales) Act 2015, the Future Generations Commissioner for Wales and the public.

3.269. The legislation places a duty on Welsh Ministers to review the national soundscapes strategy every five years.

3.270. Relevant public authorities and local authorities in Wales must take account of the national strategy on soundscapes when carrying out relevant functions in Wales. This ensures that the appropriate bodies in Wales must have regard to the strategy. There are also definitions of relevant public authorities and powers to add devolved Welsh authorities to the list subject to consultation.



3.271. The legislation allows Welsh Ministers to make regulations to amend the periods within which they must review the national soundscapes strategy. This is to allow flexibility to respond to an extraordinary election. To ensure proper scrutiny of any changes to the review period, these regulations must be approved by the Senedd.

3.272. This section of the Bill, alongside the national air quality strategy section of the Bill, allows flexibility for Ministers to consider air quality and noise together and if desired publish a single strategy covering both the national air quality strategy and the national soundscapes strategy.

**v. How the legislation enables sectors to operate more efficiently**

3.273. A duty on each new Welsh Government to set out its position and intentions on air quality, noise and soundscape either in linked plans or in a consolidated airborne pollution plan, and consult the public on them, within the first half of its term in office, will give policy clarity to public bodies with air quality and noise responsibilities and wider stakeholders, ensuring efficiency, joined-up policy-making resulting in better outcomes, transparency and accountability.

**vi. Risk if legislation is not made**

3.274. Welsh Ministers' noise action planning obligations would remain limited to major roads, major railways and agglomerations, with a five-year cycle linked to EU reporting deadlines rather than to the Senedd electoral cycle and no formal requirement to consider air quality, other forms of noise, or the emerging concept of appropriate soundscapes (which is now one of Wales' sustainable placemaking outcomes under Planning Policy Wales).

## 4. Consultation

### White Paper on a Clean Air (Wales) Bill

- 4.1. The Welsh Government's proposals for the Bill were consulted on in the White Paper on a Clean Air (Wales) Bill, Making Wales a Better and Healthier Place to Live, which ran from 13 January to 7 April 2021. A total of 26 questions were asked. Respondents had the option of responding bilingually to questions online, by submitting responses electronically to a designated mailbox or in hard copy via the postal system.
- 4.2. At the time of the consultation, the Welsh Government were seeking views to determine if legislation was required in several areas including:
- a requirement for a Clean Air Plan or Strategy to be reviewed at least every five years;
  - enhanced powers for Welsh Ministers to set air quality targets, including a duty on Welsh Ministers to set a target for PM<sub>2.5</sub> in ambient air;
  - clarified and enhanced Local Air Quality Management (LAQM) regime;
  - consolidated powers to implement Clean Air Zones or Low Emission Zones;
  - strengthened powers to address vehicle idling;
  - enhancing existing powers for smoke control linked to tackling air pollution from domestic burning (PM<sub>2.5</sub>); and
  - a duty on inter-sectoral workforces to adhere to guidance to empower them to tackle air pollution.
- 4.3. As the consultation was undertaken during a period of national restrictions due to the COVID-19 pandemic, face-to-face engagement sessions could not be held. Instead, we drew on opinions provided at a virtual event held on 11 March 2021 to discuss the consultations for the White Paper on the Clean Air Bill and reducing emissions from domestic burning of solid fuels.

## Summary of responses

- 4.4. A total of 73 responses to the White Paper were received, of which 61 were received in writing and 12 to the online consultation. In total we received 119 contributions to the consultation, as we also considered opinions provided at a White Paper event held on 11 March 2021. Respondents included members of the public, non-governmental organisations and public bodies.
- 4.5. A [consultation summary response was published](#) in February 2023. The responses represented a range of views but were, in general, supportive of the proposals for legislation contained in the White Paper and accepting of the need to bring forward legislation to further improve the quality of the air we breathe in Wales.

## Targeted engagement in 2022

- 4.6. Discussions with stakeholders continued in relation to the Bill's proposals during 2022, in a process of more targeted engagement. This included engaging with:
- Representative of the Children's Commissioner for Wales;
  - Children's Rights Advisory Group;
  - The Cross-Party Group on the Clean Air Bill;
  - The Wales Air Quality Forum;
  - Healthy Air Cymru;
  - The Clean Air Advisory Panel;
  - Local authorities;
  - Natural Resources Wales;
  - Directors of Public Protection; and
  - Academics with an interest in air quality.
- 4.7. These discussions combined with consideration of the responses to the White Paper consultation have informed our policy development.
- 4.8. The discussions held with stakeholders were positive. The proposals in the Bill were welcomed. In many instances, during discussions about the Bill, stakeholders were more interested in broader policy to improve air quality in the Clean Air Plan for Wales. For example, ensuring accessible, safe and convenient transport choices. The policy matters discussed did not require changes in primary legislation.
- 4.9. For example, as a result of discussion with stakeholders on the Bill and Clean Air Plan, we have revised our Clean Air Advisory Panel and expanded its remit to take account of technical advice and enriching it with socio-economic advice linked to the WFGA approach.

4.10. Discussions with local authorities highlighted the financial constraints they are working under. The LAQM grant worth £1 million per annum, which local authorities can bid for, is designed to provide further funding to support the Bill's proposals.

4.11. We are committed to continue to work with stakeholders during the implementation phase for the Bill.

### Policy Development following the White Paper Consultation

4.12. Differences between the proposals contained in the White Paper consultation and the proposals contained in the Bill are detailed below.

#### **National targets**

4.13. The proposals relating to national air quality targets have remained largely unchanged. However, the White Paper proposed to lay regulations setting a target for PM2.5 within 24 months of the Act receiving Royal Assent. Following more detailed planning of the steps that need to be undertaken before such a target can be set, it should be noted that the Bill requires regulations to be laid within 3 years of the Act receiving Royal Assent.

#### **National Air Quality Strategy**

4.14. The original proposals in the White Paper sought to establish a duty on Welsh Ministers to publish a Clean Air Plan every 5 years. However, after the White Paper consultation, Welsh Ministers had the opportunity to give consent to the Environment Act 2021 which inserted a 5-year timeline into section 80 of the Environment Act 1995. The Bill therefore takes account of the updated legislative framework and makes amendments to the Environment Act 1995 instead of establishing a new duty. This does not change the policy proposals, rather the means of achieving them.

#### **Air quality regulations**

4.15. We did not consult on proposals to amend the list of persons whom Welsh Ministers must consult under section 87(7) of the Environment Act 1995 when making regulations under Part IV of that Act. The outdated consultation provisions came to our attention when drafting the consultation provisions in sections 12 and 24(6) of the Bill. It was determined there was merit in the consultation provisions being aligned and, in particular, for there to be a common duty to consult the public.

## **Local Air Quality Management**

- 4.16. Having reviewed feedback from the consultation and engagement events, there have been four changes to the White Paper proposals.
- 4.17. The original proposal requiring local authorities to undertake an annual review of their monitoring siting has evolved into a requirement for an annual air quality review. This wording is broader and better reflects the policy intent that local authorities should be proactive in seeking out and addressing local air quality issues. This also aligns with existing annual reporting requirements set out in statutory guidance. In the White Paper, we proposed moving the current requirement for AQAPs to be reviewed no less than once every 5 years from statutory guidance into the legislative framework. Having reviewed consultation feedback, we are instead proposing that local authorities can review AQAPs at any point and must do so if there is a need for new or further measures to be taken to secure compliance with air quality objectives. This ensures AQAPs are live documents that are updated based on progress rather than an arbitrary date.
- 4.18. The introduction of a 'partners' proposal was consulted on in the White Paper consultation. This provision was intended to create a mechanism to enable local authorities to identify partners who could assist them to develop solutions for local air quality issues. While there was support for the idea in the consultation, some practical concerns were raised about how well it would work in practice, and whether making arrangements with multiple organisations who may want varying levels of involvement could become overly burdensome for local authorities and ultimately reduce the impact of the proposal. Instead, we will use existing mechanisms to achieve the same outcomes more efficiently. For example, the Corporate Joint Committees established under Llwybr Newydd will ensure air quality is considered in relation to transport and land use on a regional basis.
- 4.19. In the White Paper it was proposed that the LAQM provisions in Part IV of the Environment Act 1995 be transposed into Welsh legislation via the Bill. In developing the Bill, it was determined that this was not necessary and that amending Part IV of the Environment Act 1995 would deliver the policy intent. This is a difference in drafting approach and does not change the policy.

## **Smoke control**

- 4.20. There are some areas of the White Paper consultation relating to smoke control that have been altered or not taken forward in this proposal.
- 4.21. Part 3 of the Clean Air Act 1993 has not been consolidated. Instead, a new schedule has been created that mirrors most of the current England-only legislation, targeting specific provisions that are most relevant to Wales. This approach delivers our policy intent and provides general consistency with the provisions currently in force in England.
- 4.22. We have not mandated the application of smoke control orders, our existing powers to instruct local authorities to create a smoke control area remain unaffected. Instead, we will develop statutory guidance to support local authorities in implementing their new powers and they will be able to consider the role of smoke control areas when managing their local air quality.
- 4.23. We have proposed a requirement for local authorities to have regard to any Smoke Control guidance we issue. This guidance will be subject to further engagement and consultation with stakeholders.
- 4.24. Outdoor combustion has not been researched sufficiently to include in this Bill and further evidence is being gathered. Responses to the White Paper consultation highlighted that more evidence is required before legislating to include outdoor combustion within smoke control areas, such as whether a local authority provides free garden waste collection.
- 4.25. During the domestic burning consultation, which ran in parallel to the Clean Air Bill consultation, a higher percentage of people disagreed with the proposal to regulate outdoor burning appliances and fuels. The Summary of Responses to this separate consultation are expected to be published in the spring.

## **Trunk road charging**

- 4.26. The consultation proposed the creation of a standalone charging regime for trunk roads. Ultimately, it was considered that amendments to the existing legislation were preferable to starting again. This does not change the policy position as described within the White Paper, in terms of the commencement of local authority powers, the enabling of Clean Air Zones on trunk roads, and the broadening of the use of net proceeds.
- 4.27. It was not proposed during consultation that guidance on the development of Clean Air Zones be published. This is because the focus of the legislative changes are around schemes created by Welsh Ministers as opposed to local charging schemes. However, it is

recognised that guidance on the application of road user charging schemes in Wales is important in order to help shape the way powers are used, and to embed a level of consistency in their use.

- 4.28. Guidance on the application of Clean Air Zones will be included within the Framework for fair and equitable road user charging proposed within our Transport Strategy; Llwybr Newydd.
- 4.29. The White Paper also included a proposal to broaden the current limitation on net proceeds arising from trunk road charging to be used for transport policies and proposals. Consultation respondents were split in their support, or otherwise, for this, with roughly half preferring that money should remain for use on transport policies.
- 4.30. The subsequent approach taken with the legislation has been to leave the existing transport hypothecation in place for schemes created under the existing circumstances, i.e. schemes at bridges and tunnels of over 600 metres in length, or where another traffic authority has requested a scheme in connection a scheme of their own. However, when a scheme is created under the new circumstances (for the reducing or limiting of air pollution), then the existing transport hypothecation will be disapplied, providing Welsh Ministers with greater flexibilities to fund a wider range of activities.

## **Vehicle Idling**

- 4.31. In relation to vehicle idling offences, we originally consulted on two specific proposals: imposing a duty on local authorities to pay due regard to guidance on developing and implementing anti-idling measures, including enforcement; and empowering local authorities to increase the amounts of fixed penalty for vehicle idling (to enhance the deterrent effect).
- 4.32. In relation to the guidance, Welsh Ministers already have a power under section 88(1) of the Environment Act 1995 to issue guidance to local authorities in connection with their air quality management functions under Part IV of the Environment Act 1995 (which include powers to tackle vehicle idling offences). Consequently, the proposal connected to publishing guidance was not included in the Bill in order to avoid the creation of duplicative powers. However, outside of the Bill, we will produce guidance for local authorities on developing and implementing anti-idling measures. This guidance will therefore support and complement the provision within the Bill.
- 4.33. In relation to the proposal to empower local authorities to increase fixed penalties, we have given effect to this proposal through giving Welsh Ministers the power to make regulations to prescribe a monetary range of penalties from within which local authorities can determine the amount of each fixed penalty on a case-by-case basis.

## **Workforce Guidance**

- 4.34. The White Paper included proposals for developing cross-sector workforce guidance on air quality. Responses to the consultation highlighted concerns regarding how the guidance would be enforced and the extent of its reach. However, there was clear support for promoting awareness of the action that can be taken to improve, and reduce exposure, to air pollution.
- 4.35. In light of the feedback received, we have evolved our original proposals into the promoting awareness provision. This is broader than the original proposal and will still enable information relevant to workforces to be collaboratively developed and delivered while also ensuring sustained efforts to increase awareness of air pollution.

## **Noise and Soundscape**

- 4.36. The White Paper consultation did not include the proposals now contained in the Bill that put our national soundscapes strategy on a statutory basis aligned to that of our national air quality strategy. These proposals were developed subsequently, as work commenced to develop the Noise and Soundscape Plan 2023-2028, on which we expect to consult shortly.



4.37. The proposals are consistent with the public commitment made by the Welsh Government in the current Noise and Soundscape Action Plan 2018-2023 to “create and pursue any opportunities to further align noise/soundscape and air quality policy and regulation in Wales over the course of the next five years, in order to achieve multiple benefits from our actions”.

4.38. They do not go beyond what the Bill seeks to achieve in relation to the national air quality strategy. They formalise existing Welsh Government practice in this area of policy.

### Reasons for not consulting on a draft Bill

4.39. There has been no formal consultation on a draft Bill. The provisions that are included in the Bill align, for the most part, with the provisions set out in the White Paper consultation and where there have been changes these represent an evolution in thinking, rather than a departure from the original policy intent.

4.40. Following consideration of the consultation responses, the results of engagement sessions and significant events such as the cost of living and energy crises there have been some changes to what was originally consulted upon in the White Paper. These are outlined above.

4.41. Given the extensive consultation on the Clean Air Plan for Wales, the White Paper consultation, the level of responses received and subsequent engagement it was not considered necessary to consult on a draft Bill.

## **5. Power to make subordinate legislation**

- 5.1. The Bill contains provisions to make subordinate legislation and issue determinations. Table 5.1 (subordinate legislation) and Table 5.2 (directions, and guidance) set out in relation to these:
- i. the person upon whom, or the body upon which, the power is conferred;
  - ii. the form in which the power is to be exercised;
  - iii. the appropriateness of the delegated power; and
  - iv. the applied procedure; that is, whether it is “affirmative”, “negative”, or “no procedure”, together with reasons why it is considered appropriate.
- 5.2. The Welsh Government will consult on the content of the subordinate legislation where it is considered appropriate to do so. The precise nature of consultation will be decided when the proposals have been formalised.

**Table 5.1: Summary of powers to make subordinate legislation in the provisions of the Environment (Air Quality and Soundscapes) (Wales) Bill**

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
1(1)	Welsh Ministers	Regulations	Provides Welsh Ministers with a power to set long-term targets in respect of air quality in Wales. Long-term air quality targets must be responsive to changes in Welsh evidence. Including them in Regulations, enables them to be kept up to date.	Draft affirmative	The principal substance of section 1 (i.e. the target level) is contained in the regulations.
2(1)	Welsh Ministers	Regulations	Places a duty on Welsh Ministers to make regulations to set at least one target in respect of the annual mean level of PM <sub>2.5</sub> in ambient air in Wales. A requirement to set a target in respect of the annual mean level of PM <sub>2.5</sub> in ambient air in Wales needs to be evidenced based and kept up to date.	Draft affirmative	The principal substance of section 2 (i.e. the target level) is contained in the regulations.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
11(1)	Welsh Ministers	Regulations	Section 80 of the Environment Act 1995 sets the periods within which the Welsh Ministers must review the national air quality strategy they are required to produce under that section. It is appropriate to take a regulation making power so Welsh Ministers have flexibility to change the period within which the Welsh Ministers must review the strategy, to, if necessary, in the event of an extraordinary Senedd election, ensure the timing of the review still falls early within the term of office of successive Welsh Governments.	Draft affirmative	Enables Welsh Ministers to amend primary legislation (the Environment Act 1995).

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
13(1)	Welsh Ministers	Regulations	Section 13(1) inserts section 81B into the Environment Act 1995. Section 81B(3) gives Welsh Ministers the power, by regulations, to designate a relevant Welsh Public Authority for the purpose of section 81(B)(1) - persons who must have regard to policies published by the Welsh Ministers in the National Air Quality Strategy. It is appropriate to enable a relevant Welsh Public Authority to be designated in regulations as the authorities to be designated may need to be amended over time.	Draft affirmative	The regulation making power if exercised would place relevant Welsh Public Authorities that are designated under a significant legal duty.

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
18(2)	Welsh Ministers	Regulations	Section 18(2) inserts section 19H into the Clean Air Act 1993. Section 19H(1) gives Welsh Ministers the power by Regulations to suspend or relax Schedule 1A of that Act (penalty for emission of smoke); or section 19H(1) of that Act (offences relating to the acquisition and sale of fuel). It is appropriate for this power to be included in Regulations as the Welsh Ministers need to retain discretion over whether or not to make such provision. Only doing so where it appears to them to be necessary or expedient to do so.	Negative	Procedure governed by section 63 of the Clean Air Act.
21	Welsh Ministers	Order	Section 167 of the Transport Act 2000 sets out the circumstances in which the Welsh Ministers may make an Order under section 168 of that Act for a trunk road charging scheme. Section 21 of the Bill amends the existing provisions in section 167 to extend the circumstances in which the Welsh Ministers may make such an Order.	No procedure	Procedure governed by existing provisions in the Transport Act 2000 (section 169).

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
23(2)(a)	Welsh Ministers	Regulations	Amends section 87 of the Environment Act 1995. Enables Welsh Ministers to make Regulations setting a fixed penalty of a prescribed amount or a monetary range of penalties for the offence of stationary idling. Suitable for Regulations as the level of fixed penalty will need to be kept under review and updated.	Draft affirmative	In accordance with section 87, regulations made under section 87 are subject to the affirmative procedure.
24(7)	Welsh Ministers	Regulations	Provides a power to change the period within which Welsh Ministers must review the noise and soundscape strategy under this section. It is appropriate for this to be a regulation making power as flexibility is required to ensure the review deadline continues to fall at a sensible point relative to Senedd elections. This ensures democratic accountability by requiring each Welsh Government to carry out a review during its 5-year term in office.	Draft affirmative	Power enables amendments to be made to primary legislation.

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
25(3)	Welsh Ministers	Regulations	Provides a power for Welsh Ministers to designate a person as a relevant Welsh public authority that must have regard to the policies in the Welsh Ministers' national strategy on soundscapes when exercising any function of a public nature that could affect soundscapes in Wales. It is appropriate for this power to be a regulation making power as the authorities to be designated may need to change over time.	Draft affirmative	Places relevant Welsh public authorities that are designated under significant legal duty.
26(1)	Welsh Ministers	Regulations	Powers for the Welsh Ministers to make regulations to amend regulation 7 of the Environmental Noise (Wales) Regulations 2006 changing time periods associated with the making and adopting of strategic noise maps. It is suitable for regulations as it is a power to amend existing regulations.	Negative	Amends existing regulations.



Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
26(2)	Welsh Ministers	Regulations	Powers for the Welsh Ministers to make regulations to amend regulation 17 of the Environmental Noise (Wales) Regulations 2006 changing the time period within which reviews of an action plan required under those Regulations are to be carried out. It is suitable for regulations as it is a power to amend existing regulations.	Negative	Amends existing regulations.
27(1)	Welsh Ministers	Regulations	Power to make consequential, transitional etc provision is required as the Bill makes complex amendments to existing primary legislation within a complex network of secondary legislation and retained EU law. In future, it may become necessary to make amendments to ensure the Bill can continue to operate in accordance with the stated policy intent.	Draft affirmative insofar as the Regulations modify primary legislation  Otherwise negative	Power enables amendments to be made to primary legislation.
29(3)	Welsh Ministers	Order	Suitable for commencement by Order as coming into force needs to be timed to ensure delivery arrangements are in place.	No procedure	This Order relates to the commencement of specified provisions of the Bill.

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Schedule 1 Paragraph (4)	Welsh Ministers	Regulations	Regulation making power enabling Welsh Ministers to amend the minimum and maximum amounts of financial penalty that may be imposed under paragraphs 3(1) and 3 (2) of Schedule 1A to the Clean Air Act 1993. Suitable for regulations as the penalty amounts will need to be reviewed and kept up to date.	Draft Affirmative	Power enables amendments to be made to primary legislation.
Schedule 1 paragraph (5)	Welsh Ministers	Regulations	Regulation making power enabling Welsh Ministers to amend the grounds of objection to financial penalties set out in paragraph 4 of Schedule 1A. Suitable for regulations as the grounds for objection may need to be amended in light of experience.	Draft Affirmative	Power enables amendments to be made to primary legislation.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Schedule 2 paragraph (6)	Welsh Ministers	Regulations	Regulation making powers enabling Welsh Ministers to make provision as to when the same scheme is to be regarded as continuing in force or when a different scheme is, or is not, to be regarded as coming into Force for the purposes of determining when the ten-year period specified in sub paragraph (2) of paragraph 6 begins or expires. Also provides for regulations to determine how net proceeds are to be applied after the expiration of the ten-year period and a power to increase the ten year period by regulations.	Draft Affirmative	Power enables amendments to be made to primary legislation.

**Table 5.2: Summary of powers to make directions and guidance in the provisions of the Environment (Air Quality and Soundscapes) (Wales) Bill**

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
13(3)(b)	Welsh Ministers	Guidance	Power to issue Guidance to relevant Welsh Public Authorities related to the exercise of powers conferred etc under section 81B of the Environment Act 1995 or in regulations made by Welsh Ministers under Part IV of that Act. Suitable for Guidance as the key provisions will be set out on the face of the Environment Act 1995, as amended by the Bill, or in Regulations made by the Welsh Ministers. The guidance will provide further information and assistance to relevant Welsh Public Authorities. The guidance will go no further than provide supplementary detail.	No procedure	Guidance is considered appropriate as it is intended to facilitate the application of primary legislation.

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
17	Welsh Ministers	Directions	The Bill makes amendments to an existing power of direction conferred on the Welsh Ministers that is contained in section 85 of the Environment Act 1995. Suitable for directions as the whole purpose of the provision is to enable Welsh Ministers to tell local authorities to take action if they have failed to comply with action plans or have failed to achieve an air quality standard or objective within the date specified in an action plan.	No procedure	Powers of direction are considered appropriate and proportionate should the Welsh Ministers require local authorities to take steps to meet the specified legal duties. They simply add to an existing power of direction already contained in section 85 of the Environment Act 1995.
19	Welsh Ministers	Guidance	Suitable for Guidance as key provisions are set out in Part III of the Clean Air Act 1993. The Guidance will go no further than provide supplementary detail.	No procedure	Guidance is considered appropriate as it is intended to facilitate the application of primary legislation.

## PART 2 – REGULATORY IMPACT ASSESSMENT

### 6. Regulatory Impact Assessment (RIA) summary

6.1. A Regulatory Impact Assessment has been completed for the Bill and it follows below.

6.2. There are no specific provisions in the Bill which charge expenditure on the Welsh Consolidated Fund.

**Table A** The following table presents a summary of the costs and benefits for the Bill as a whole. The table has been designed to present the information required under Standing Order 26.6 (viii) and (ix).

<b>Preferred option: Introduce a Bill which provides an appropriate legislative framework on air quality and soundscapes.</b>		
<b>Stage:</b> Introduction	<b>Appraisal period:</b> 2023/24 - 2032/33	<b>Price base year:</b> 2022/23
<b>Total Cost</b> Total: £63,839,100 – 80,947,700 Present value: £51,849,100 – 65,598,800	<b>Total Benefits</b> Total: £0 Present value: £0	<b>Net Present Value (NPV):</b> £-51,849,100 to £-65,598,800

#### Administrative cost

<b>Costs:</b> The majority of the direct costs of the Bill are expected to fall to Welsh Government. These costs include staff costs to implement the provisions in the Bill, costs associated with establishing a set of air quality targets, ongoing costs to monitor air quality and a fund to support local authorities to deliver the Local Air Quality Management (LAQM) regime. In addition to these revenue costs, there is a capital cost of between £10.4m and £14.9m relating to enhanced air quality monitoring.			
<b>Transitional:</b> £11,189,600 – 15,698,200	<b>Recurrent:</b> £52,483,900 – 65,083,900	<b>Total:</b> £63,673,500 – 80,782,100	<b>PV:</b> £51,713,800 – 65,463,500

**Cost-savings:** No cost-savings have been identified.

<b>Transitional: £0</b>	<b>Recurrent: £0</b>	<b>Total: £0</b>	<b>PV: £0</b>
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**Net administrative cost: £63,673,500 – 80,782,100**

### **Compliance costs**

Local authorities may incur additional costs for enforcement activity in smoke control areas (SCAs), these costs are estimated to be £165,600. Local authorities may also incur additional costs as a result of the LAQM and anti-idling provisions, however, support will be available through the LAQM fund (which is already included in the Welsh Government costs above).

<b>Transitional: £0</b>	<b>Recurrent: £165,600</b>	<b>Total: £165,600</b>	<b>PV: £135,200</b>
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### **Other costs**

No other costs have been identified.

<b>Transitional: £</b>	<b>Recurrent: £</b>	<b>Total: £</b>	<b>PV: £</b>
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## Unquantified costs and disbenefits

In addition, there are potential compliance costs to public bodies, businesses and society in general as a result of the provisions on National Targets and Clean Air Zones (CAZ)/Low Emission Zones (LEZ). The scale and incidence of these costs will depend on the specific targets introduced and the location of any CAZ/LEZ and are therefore unknown at this stage. Further work to estimate costs and benefits will be undertaken as a part of the target setting process and in modelling potential CAZs/LEZs.

## Benefits

The RIA (and Part 1 of this Explanatory Memorandum) presents evidence on the costs and disbenefits associated with current levels of air and noise pollution. The provisions in the Bill put in place a legislative framework which will help to address air and noise pollution and are expected to deliver long-term health, economic, social and environmental benefits. While it has not been possible to quantify benefits at this stage, further work aimed at monetising benefits will be undertaken when setting the National Targets and considering the introduction of CAZs/LEZs.

**Total: £0**

**PV: £0**

## Key evidence, assumptions and uncertainties

This Regulatory Impact Assessment has been informed by a previous draft Regulatory Impact Assessment and consultation on the Bill.

A wide variety of administrative data, research and evidence from Wales and further afield has been used to inform the analysis.



## **7. Options, Costs and Benefits**

7.1. This section will examine the associated costs and benefits of each legislative proposal in the Bill in turn with multiple options considered to determine the best possible approach to improving air quality in Wales.

7.2. A ten-year appraisal period has been used in the analysis, covering the years 2023-24 to 2032-33. All costs are presented in 'real' base year prices, with the effects of general inflation removed. This is in line with the guidance in HM Treasury's Green Book. Costs have been discounted using HM treasury's central discount rate of 3.5%.

7.3. Costs have been rounded to the nearest £100 unless otherwise stated. Some totals may not sum due to this rounding.

## **National Targets**

7.4. This section of the RIA is to support the proposal to introduce a target-setting framework in Wales.

7.5. Three options have been considered to achieve the Welsh Government's objective of developing evidence-based and effective target-setting legislation for the benefit of current and future generations:

- **Option one** – Do nothing (baseline);
- **Option two** – Strengthen the current policy approach; and
- **Option three** – Introduce a new fit for purpose air quality legislative framework for Wales.

### **Option one – Do Nothing**

#### **Description**

7.6. Under this option, the intention would be to maintain the current approach to managing ambient air quality. This involves maintaining the current statutory ambient air quality objectives, which local authorities must work towards, and national target values stemming from the EU Ambient Air Quality Directive for the protection of human health and the environment. No further action would be taken in Wales beyond those committed to reduce emissions of five important pollutants to levels which the UK is required to meet by 2030 under the National Emission Ceilings Regulations 2018 (NECR). Option one is provided as a baseline for comparison with the potential benefits of strengthening the current approach and introduce a framework for Welsh Ministers to set new evidence-based air quality targets in the future.

## Costs

- 7.7. The intention under this option would be to maintain the current Welsh Government budget for managing air quality. While there would be no new costs to the Welsh Government from this option initially, there will be increased costs over time as the health problems resulting from poor air quality become more apparent, with the emergence of improved evidence, and the issues around poor air quality, health and inequalities are not addressed. Based on mean levels of fine particulate matter (PM<sub>2.5</sub>) where people were exposed (in 2016), it is estimated that 3.16 million people in Wales are exposed to an average concentration of 6µg/m<sup>3</sup> of PM<sub>2.5</sub>, corresponding to a monetised health impact of £950M per year ([central estimate](#)). This estimate includes both direct costs, for example, chronic mortality, respiratory hospital admissions, coronary heart disease, strokes, asthma in children and lung cancer, and indirect costs, such as productivity and building soiling. Existing resources to manage air quality would continue to be provided although increased funding may be needed to respond to the associated health and social costs.
- 7.8. Depending on the specific pathway taken in achieving a notional Welsh share of UK emission reduction commitments under NECR and lowering public exposure, previous estimates of the associated cross-sector costs is approximately £10m per annum (total annualised costs in 2017 prices). Given the synergies with net zero decarbonisation policies, part of these costs will already be accounted for in achieving our climate change ambitions and targets. Key positives for air quality targets will come from progress towards decarbonisation of industry, energy, and transport. When compared with the health costs caused by poor air quality, the relative cost of action is minimal.
- 7.9. Although the Clean Air Plan for Wales outlined actions to reduce overall sources of pollution, including for PM<sub>2.5</sub>, exposure to PM<sub>2.5</sub> continues to pose a significant risk to health. Furthermore, evidence on the disproportionate effects of exposure to poor air quality on sensitive groups is continuing to emerge. Doing nothing therefore would not address this issue. The Welsh Government considers the long-term costs of not taking further action to protect public health and reduce exposure to PM<sub>2.5</sub> concentrations, particularly for sensitive groups, are too high.
- 7.10. There would be no additional costs to local authorities or other public or private bodies from this option.

## Benefits

- 7.11. A potential benefit of doing nothing would be an initial cost saving, as other options contain implementation costs to the taxpayer and statutory delivery agents

## Summary

7.12. Option one is to continue managing ambient air quality as it currently stands in keeping with the current statutory air quality targets and emission reduction commitments. No new implementation costs to local authorities will be realised. However, the costs to health and social care services associated with exposure to air pollution are likely to remain in years to come to deal with the health impacts of poor air quality. The impacts of a do-nothing approach would be particularly felt by more vulnerable groups, such as young children, the elderly and those with pre-existing health conditions.

## **Option two – strengthening the current policy approach**

### **Description**

7.13. This option would maintain the environmental protection afforded by current ambient air quality standards in Wales stemming from European directives (which were retained following EU Exit) and would amend them to track potentially more stringent EU standards set in the future. For example, in October 2022 the European Commission published proposals for new air quality standards within revisions to the Ambient Air Quality Directives. Following the UK's exit from the EU, the Welsh Government is committed to taking proactive action to improve air quality in Wales for the benefit of public health, the environment and biodiversity, and the economy. This option would ensure the gradual development of targets, although future targets may not be introduced at a time or in a way which focuses actions to achieve the most effective improvement in Wales. As recognised by the World Health Organisation (WHO), the target-setting process needs to aim to achieve the lowest concentrations possible in the context of local constraints, capabilities and public health priorities. Setting new targets which are dependent on events outside of Wales and the UK would risk making it more difficult to integrate them with other national and local policies for the long-term well-being of Welsh citizens. This option is reactionary and will require the Welsh Government to respond when changes are made in Europe rather than being proactive as in Option three, where Welsh Ministers have a framework in which they can set their own targets.

### **Costs**

7.14. Costs in relation to managing air quality would be expected to remain at current levels in line with existing commitments in the Clean Air Plan for Wales and the NO<sub>2</sub> Plan. Current expenditure for managing air quality would need to be maintained, although it is likely to need to be reviewed and increased following the introduction of potentially more stringent targets in the future. This option is reactionary and therefore it is not possible to predict when costs will be required and what those costs will be. Costs for non-Welsh Government departments would depend on the form of the targets set.

## **Benefits**

7.15. Further and more stringent targets, including standards which mirror or exceed EU future standards, will help focus actions to reduce the harm caused by poor air quality. This may reduce costs to the health service if actions taken to improve air quality result in improved health for Welsh citizens, a reduction in aggravation of existing health conditions and reduced demand on health services as a result of improved air quality. It is difficult to quantify the benefits of future unspecified targets in the absence of information in relation to the pollutant, its level, the metric or compliance date.

## **Summary**

7.16. Option two could strengthen the current policy by introducing new targets in line with changes to EU future standards. This is a reactionary option and would not be developed in a Wales-specific context. It is therefore difficult to predict the costs or benefits that will be experienced by following this option. It is likely health benefits will be achieved only if improved air quality standards are brought in and introduced effectively. Timescales are unknown for option two. This is not considered the best option for improving the health and well-being of Welsh citizens because it does not take into account the specific social, environmental and economic pressures in relation to Wales. This would result in frameworks for targets being adopted that have not been designed within the Welsh social, economic and environmental context, including the associated detailed policies and principles.

## Option three – enact an air quality legislative framework for Wales

### Description

- 7.17. This option would introduce a framework within which air quality targets can be set. Welsh Ministers would be able to set long-term targets and be required to set a specific target in respect of PM<sub>2.5</sub> in ambient air within 36 months of the Bill receiving Royal Assent.
- 7.18. Our existing air quality standards will continue to have effect in Wales, providing continuity and ensuring standards are maintained while new targets are being developed. There are also opportunities to be more ambitious and to go beyond these standards to reduce the harmful effects of poor air quality. In September 2021, WHO published updated guidelines in relation to six pollutants, including for PM<sub>2.5</sub> and NO<sub>2</sub>. The guideline for PM<sub>2.5</sub> was lowered from 10 µg/m<sup>3</sup> to 5 µg/m<sup>3</sup> and the guideline level for NO<sub>2</sub> was reduced from 40 µg/m<sup>3</sup> to 10 µg/m<sup>3</sup>. Currently there is no clear evidence of a threshold concentration of PM<sub>2.5</sub> or NO<sub>2</sub> in ambient air below which there are no harmful effects on human health. Therefore, reductions in concentrations below the current limits and even the recommended guideline are likely to bring additional health benefits. Other pollutants also affect public health and the environment, and we know that air pollution poses the single greatest environmental risk to human health.
- 7.19. A target-setting framework will enable additional targets to be set in the future to achieve effective and long-term outcomes for current and future generations. Through the Environment Act 2021, the UK Government introduced powers and duties to set environmental targets in England and plan, monitor and report on progress towards them to protect and improve the environment, including air quality. Similarly, the powers and duties to set new legally binding air quality targets can help to create the short and long-term certainty required to enable sustained investment in policies and actions in Wales, improving the air we breathe and realising direct short and long-term benefits for public health, habitats and biodiversity.
- 7.20. The ability of Welsh Ministers to determine the scales, levels and dates of future air quality targets will enable targets to be set in the context of the evidence base and policy ambition in Wales, including consideration of synergies with decarbonisation policy and long-term social, economic and environmental well-being. Once targets have been set, the framework will introduce a cycle of measurement, assessment and reporting. Alongside providing a 'minimum' level of air quality across Wales, we want targets to drive continuous improvement in reducing exposure to pollution whilst maximising the associated benefits.

7.21. It will be important to understand whether new targets set under the framework have been met and, if not, what the causes of the issue are and what can be done about them. Assessing the pressures and risks associated with air quality can be a complex process. Our [previous analysis](#) indicated significant progress is likely to be made in reducing PM<sub>2.5</sub> by 2030, and further enhanced by taking the most cost-effective multi-pollutant and cross sector emission reduction measures (accounting for legislative and technical developments). However, it did not outline an agreed pathway of policy measures accounting for full economic viability, or practical deliverability. New targets need to be based on sound evidence to ensure they are challenging but realistic and likely to achieve the right outcomes. The process to determine new air quality targets which are effective, proportionate and practically feasible is complex and time consuming and will require further analysis and advice as the process develops.

7.22. A preliminary analysis of the impacts of setting targets is provided in the next section. However, a detailed analysis of the expected impacts of the secondary legislation will be carried out during the course of its development when the specific target details have been finalised.

## Costs

7.23. The costs for implementing a target-setting framework, and on-going assessment will fall to the Welsh Government. This will likely require the time of 30% of one Grade 7 (G7) costing £26,000, 75% of one Senior Executive Officer (SEO) costing £49,800, 30% of one Higher Executive Officer (HEO) costing £15,800 and 80% of one Executive Officer (EO) costing £32,400<sup>1</sup>. Costs will be incurred during the development and implementation of the framework over financial years 2023/24 up to 2032/33. Engagement costs associated with the development of the framework would range from £1.4k to £10k, depending on the level and scale of virtual and physical events. These provisions would have no immediate impacts on costs to society. There will be consultation with the Natural Resources Wales (NRW) and other stakeholders, but costs to these external agencies associated with the consultation process are expected to be minimal.

7.24. In addition to the costs of setting up the framework, there will be future costs of setting targets within the framework. Changes to regulations using these powers would be subject to consultation and appropriate Senedd procedures. Work will need to be carried out to identify what actions will be required to meet any potential targets to ensure they are feasible and effective within any specified timescales. This will inform the potential level of improvement which is capable of being met, and by when. This work includes determining the appropriate air quality monitoring, modelling and reporting capabilities

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<sup>1</sup> All Welsh Government staff cost figures in the RIA are based on 2022-23 averages (the latest available). Employer on-costs are included in the figures.



necessary to measure, assess and report on compliance with specific targets. Based on commissioning of similar previous technical support, a sum of up to £540k has been estimated to provide technical consultancy support, with costs anticipated to be incurred over financial years 2023/24 to 2024/25.

- 7.25. Actions beyond measures to achieve a notional Welsh share of UK emission reductions under NECR by 2020 and 2030 are likely to be required to meet new targets. However, it is not currently possible to estimate the cost of implementing new regulation as the scope of action required has not been defined. These specific costs are therefore unknown at this stage. There will be costs to business and households if the Welsh Government is required to meet a more stringent target for PM<sub>2.5</sub>. Those costs will vary greatly depending on a number of factors such as the level set as the target, the deadline for meeting the target, the measures selected to achieve the target, changes in technology and the impacts on air quality of other government actions, such as on climate change. The decision as to when and how to cost effectively achieve targets to be set by Welsh Ministers will be based on independent expert advice. This will in turn determine the costs to business and households and at which point in time they are incurred. Any costs to business and households may be tempered by technological innovation, which may be further incentivised by government targets.
- 7.26. The framework will require Welsh Ministers to put in place arrangements for data collection to assess progress made towards targets once they have been set under the framework, and to ensure the data are published. Closely related to the duty to collect and publish data, the Clean Air Plan includes the commitment to develop and implement a national Air Quality Monitoring and Assessment Service for Wales, and the Programme for Government includes a commitment to extend the provision of air quality monitoring. Subject to full consideration and affordability, Welsh Ministers have existing powers to implement a reporting and advisory function to interpret the data collected, assessing the pressures and risks of air quality across Wales and the progress made towards meeting targets or interim targets set under the framework using existing powers. The function, if implemented, could give effect to the proposed Air Quality Monitoring and Assessment Service. The potential additional monitoring and national reporting capability of a service would provide the basis for assessing compliance with new targets and driving collaborative, nationally consistent and evidence-based actions across Wales at the appropriate scale for the long-term benefit of public and environmental health. Based on detailed discussions with environmental regulators, indicative on-going cost estimates to provide a functional a service is approximately £1.96m per annum.

- 7.27. Welsh Government commissioned technical consultants to undertake the development of potential extended air quality monitoring network designs and the associated costs. Indicative analysis to extend national air quality monitoring capabilities for PM<sub>2.5</sub> to underpin a new PM<sub>2.5</sub> target or targets, would be likely to incur a one-off capital cost for purchase and installation of the equipment, including VAT, of up to £10.4m (range dependent on type and scale of monitoring network). Indicative on-going management and maintenance annual revenue costs for monitoring PM<sub>2.5</sub>, including VAT, would be likely to be up to £3.6m (range dependent on type and scale of monitoring network).
- 7.28. Future monitoring requirements are subject to the development of the specific air quality target proposals, affordability in the context of the current cost of living crisis and Ministerial consideration. Target proposals are currently being developed by modelling future policy pathways alongside requests for the independent expert advice of the Clean Air Advisory Panel (CAAP) and other government expert advisory bodies. Following feedback received from the Clean Air Bill White Paper consultation, the publication of updated WHO guidelines and their own advice to us, CAAP are advising on the case for introducing new targets in addition to PM<sub>2.5</sub>. If future targets are set for additional pollutants, such as for PM<sub>10</sub>, NO<sub>2</sub> and ammonia (NH<sub>3</sub>), estimated indicative purchase and installation costs which include PM<sub>2.5</sub> would be up to £14.9m and associated ongoing management and maintenance costs are estimated to be up to £5.7m (ranges dependent on the type and scale of monitoring network). Capital costs for enhancing the national air quality network are anticipated to be incurred during financial year 2025/26 and 2026/2027 with annual on-going costs to begin during 2027/2028, following ministerial consideration of the air quality target proposals.

Table 1 – Summary of costs associated with National Targets: Option three – enact an air quality legislative framework for Wales

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs	£124k	£124k	124k	£124k	£124k	£124k	£124k	£124k	£124k	£124k
Engagement costs	£1.4k - £10k		-	-	-	-	-	-	-	-
Setting Targets Future work	£540k		-	-	-	-	-	-	-	-
Air Quality Monitoring and Assessment Service	-	£500k	£1.08m	£1.96m	£1.96m	£1.96m	£1.96m	£1.96m	£1.96m	£1.96m
PM <sub>2.5</sub> monitoring capabilities (lower monitoring cost estimate)	-	£30k	£5.2m	£5.2m	£3.6m	£3.6m	£3.6m	£3.6m	£3.6m	£3.6m
PM <sub>2.5</sub> , PM <sub>10</sub> , NO <sub>2</sub> and ammonia	-	£30k	£7.45m	£7.45m	£5.7m	£5.7m	£5.7m	£5.7m	£5.7m	£5.7m

(NH <sub>3</sub> ) (upper monitoring cost estimate)										
Total transitional cost	£270.7k - £275k	£300.7k -£305k	£5.2m - £7.45m	£5.2m – £7.45m						
Total recurrent cost	£124k	£624k	£1.204m	£2.084m	£5.684m - £7.784m	£5.684m - £7.784m	£5.684m - £7.784m	£5.684m - £7.784m	£5.684m - £7.784m	£5.684m - £7.784m
<b>Total cost</b>	<b>£394.7k - £399k</b>	<b>£924.7k- £929k</b>	<b>£6.404m - £8.654m</b>	<b>£7.284m - £9.534m</b>	<b>£5.684m - £7.784m</b>	<b>£5.684m - £7.784m</b>	<b>£5.684m - £7.784m</b>	<b>£5.684m - £7.784m</b>	<b>£5.684m - £7.784m</b>	<b>£5.684m - £7.784m</b>

## Benefits

- 7.29. The main benefits of a target-setting framework are that it enables the Welsh Government to respond to emerging evidence, pressures and risks for the long-term benefit of public and environmental health. The Welsh Government can ensure an evidence-based approach is taken to any air quality targets set and will be able to identify which measures will need to be taken prior to setting any new targets. The benefits to health will be able to be realised much quicker as new targets can be brought in more easily. This in turn will reduce health and social care costs.
- 7.30. The benefits of better air quality will also improve biodiversity and outside spaces which in turn can improve people's health and well-being and make spending more time outside being active more attractive.
- 7.31. Preliminary analysis of national average concentrations of PM<sub>2.5</sub> and NO<sub>2</sub> across socio-economic groups indicates concentrations are highest for the most deprived groups who tend to live in cities where the air quality is worst. Assessments to estimate the impacts of cross-sector measures to achieve a notional Welsh share of the NECR targets, show the largest improvements in concentrations for the most deprived groups and reduced inequalities across all scenarios and levels of ambition.
- 7.32. Beyond the benefits associated with our existing NECR emission reduction commitments, the benefits of meeting more stringent levels for annual mean air pollutants are estimated in terms of avoided costs to society if emissions reductions are achieved. Damage costs are a simple way to value changes in air pollutants. The cost to society which is avoided is calculated in monetary terms using a damage cost (see table below, with high to low ranges, as well as central estimates), which predominantly captures the health benefits from reduced emissions or population-weighted concentrations. Total benefits of the intervention are estimated by multiplying the damage costs with the population exposure. Due to the currently undetermined target levels and dates at which targets are to be met, it is currently not possible to estimate the potential associated benefits. Once a target and year for compliance has been decided, the benefits can be estimated accordingly. Monetised impacts will be estimated via cost benefit analysis in an impact assessment setting out the proposed target.

Table 2 - Valuing changes in population-weighted air pollutant concentrations  
 - ranges of damage costs per unit concentration

<b>Direct impacts - (£2017 per pop. weighted mean 1 µg/m<sup>3</sup> change per person)</b>			
<b>Pollutant</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
Nitrogen oxides (NO <sub>x</sub> )	£0.6	£6.3	£19.1
Sulphur dioxide (SO <sub>2</sub> )	£0.1	£0.1	£0.1
Fine particulate matter (PM <sub>2.5</sub> )	£13.8	£50.1	£119.7

## Summary

7.33. Option three is the preferred option as it enables the Welsh Government to respond to emerging evidence in Wales, pressures and risks for the long-term benefit of public and environmental health with bespoke air quality targets. The cost of setting up the framework is minimal compared to the health costs caused by poor air quality. The target-setting framework will deploy an evidence-based approach to ensure that any measures required to be taken to meet targets set under it do not detrimentally affect Welsh people especially those in disadvantaged groups. Improvements in air quality are likely to have the biggest positive effect on children, those living in poverty and those living in areas with the highest levels of air pollution.

## **Promoting awareness of air pollution**

7.34. This section of supports proposals relating to the duty on Welsh Ministers to promote awareness of air pollution and two options have been considered in detail:

- **Option one** – Do nothing; and
- **Option two** – Introduce legislation requiring Welsh Ministers to take steps to promote awareness of air pollution.

### **Option one – Do Nothing**

#### **Description**

7.35. This option would entail delivery of relevant actions in the Clean Air Plan: Healthy Air, Healthy Wales ('Clean Air Plan') up to 2026. In the plan, the Welsh Government committed to:

- Improve air quality information;
- Increase awareness through campaigns such as Clean Air Day; and
- Promote and support local initiatives.

#### **Costs**

7.36. There would be no additional costs to Welsh Government or any other sector/organisation under this option. However, there is a risk that action in this area reduces beyond 2026 if policy commitments are reduced or deprioritised over time. The Coroner's Prevention of Future Deaths [Report](#) published following the reopening of the inquest into the death of nine-year-old Ella Adoo-Kissi-Debrah outlined the importance of public awareness regarding air pollution sources and actions to reduce exposure. A lack of policy support to promote awareness in the future could have significant health implications and lead to increased societal costs (as outlined in the national targets section) from air pollution exposure.

#### **Benefits**

7.37. A benefit of this option is that there would be no additional expenditure for Welsh Government or any other sector/organisation beyond commitments in the Clean Air Plan. However, the potential for a reduced or deprioritised policy commitment to promote awareness of pollution over time, as highlighted above, is a disbenefit of this option. While there are [national](#) and [global](#) campaigns that would help to keep air pollution awareness on the agenda, approaches that are specific, targeted and connected to actions or behaviours have [been found](#) to be more effective.

## Summary

7.38. This option maintains the status quo and supports the delivery of actions to promote awareness up to 2026, as set out in the Clean Air Plan. However, there is a risk that action to promote awareness of air pollution could reduce or be deprioritised in the future which risks the greater health and societal costs from a lack of awareness of air pollution sources and actions that can be taken to reduce exposure.



## Option two – Introduce legislation requiring Welsh Ministers to take steps to promote awareness of air pollution

### Description

7.39. This option would support policy action to promote awareness in the short, medium and long-term by introducing a legal duty on Welsh Ministers to take steps to promote awareness of air pollution.

### Costs

7.40. The Welsh Government would incur administrative costs in developing a delivery plan for implementation of the legislation. Developing a delivery plan and undertaking engagement and consultation could take 12 months and would likely require the time of one HEO costing a maximum of £52,800 and 25% of 1 SEO with a maximum cost of £16,600 (0.25 x £66,400) in 2024 – 2025 financial year. Using Welsh Government's [Raising Awareness of Children's Rights plan](#) as an example, translation could cost approximately £90 (estimated maximum of £90 per £1000 words). The approximate total cost would be £69,500. In future, these costs could be reduced by embedding the delivery plan in future Clean Air Plans or strategies.

7.41. It is estimated that a budget of up to £500k per annum would be needed for implementation of this legislation which includes costs such as developing materials (likely costs range between £5k - £80k), digital communication costs (likely costs range between £15k and £120k depending on scale of campaign) and supporting local initiatives (this is likely to vary significantly each year but could range between £5k and £300k). The capital and revenue allocation of this amount would vary and be dependent on the nature of the action taken, which will be determined following engagement with stakeholders. This cost would be recurrent and incurred following commencement which will be 2 months after Royal Assent, so the cost would begin to be incurred in the 2024 – 2025 financial year. For the purpose of the RIA, we have used the upper estimate of 500k to give us maximum flexibility when designing actions to take with stakeholders.

7.42. The LAQM Support Fund (as outlined in the LAQM section below) has demonstrated the value of financial support for local authorities to deliver targeted and specific local initiatives, including those which encourage and enable community involvement in air quality action. The LAQM Support Fund would therefore provide additional financial support to enable implementation of this provision.

Table 3 – summary of cost associated with Promoting Awareness: Option two – Introduce legislation requiring Welsh Ministers to take steps to promote awareness of air pollution

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/2031	2031/32	2032/33
WG Staff Costs	-	£69.5k	-	-	-	-	-	-	-	-
Budget	-	£500k	£500k	£500k	£500k	£500k	£500k	£500k	£500k	£500k
Total transitional cost	-	£69.5k	-	-	-	-	-	-	-	-
Total Recurrent cost	-	£500k	£500k	£500k	£500k	£500k	£500k	£500k	£500k	£500k
<b>Total Cost</b>	-	<b>£569.5k</b>	<b>£500k</b>	<b>£500k</b>	<b>£500k</b>	<b>£500k</b>	<b>£500k</b>	<b>£500k</b>	<b>£500k</b>	<b>£500k</b>

## Benefits

7.43. This approach overcomes the limitations of the previous option by ensuring that a commitment to promote awareness of air pollution will be sustained. It is difficult to quantify the benefits of this option, however, the increased costs associated with implementing the legislation could be potentially offset by the potential reduction in health and societal costs achieved through [greater public awareness](#) of air pollution sources and ways to reduce exposure.

## Summary

7.44. Option two is a combined policy and legislative approach which introduces a duty on Welsh Ministers to take steps to promote awareness of air pollution. This is the preferred option as it overcomes the risks of option one that policy commitment could reduce over time and ensures a sustained and ongoing effort to promote awareness of air pollution. Costs fall solely to the Welsh Government, with an administrative cost of approximately £69,500 to develop a delivery plan and ongoing budget of up to £500k per annum.

## **Review and Publication of a National Air Quality Strategy for Wales**

7.45. This section of the RIA is to support provisions relating to the review and publication of a national air quality strategy for Wales.

7.46. Two options have been considered for publishing and reviewing a national air quality strategy for Wales to ensure essential action is taken to tackle air pollution to achieve the best outcomes for current and future generations:

- **Option one** – Do nothing (baseline); and
- **Option two** – Strengthen the current legislation.

### **Option one – Do Nothing**

#### **Description**

7.47. Section 80 of the Environment Act 1995 requires the UK Government and the Devolved Governments for Scotland and Wales to produce a national air quality strategy containing standards, objectives and measures for improving ambient air quality and to keep these policies under review. There is equivalent legislation in Northern Ireland. The first Air Quality Strategy was adopted in 1997. This was replaced in January 2000 by the Air Quality Strategy for England, Scotland, Wales and Northern Ireland which established the framework for achieving further improvements in ambient air quality. The Strategy identified actions at local, national and international level to improve air quality. The strategy was further updated in 2003. A full review led to an [updated Strategy](#) published in 2007.

7.48. Work in each administration to improve air quality has continued to progress, and in August 2020 the Welsh Government published the first comprehensive [Clean Air Plan for Wales](#). For the purposes of section 80, the Clean Air Plan for Wales is the national air quality strategy.

7.49. Paragraph 2 of Schedule 11 to the UK Environment Act 2021 amended the Environment Act 1995. An insertion in respect of the air quality strategy requires that it must now be reviewed, and if appropriate modified, every five years.

7.50. As a result, there is now a duty on Welsh Ministers to review the national air quality strategy every five years. However, unlike well-being objectives and the National Natural Resources Policy, this five-year cycle is not linked to the timing of Senedd elections and does not amount to an explicit duty on each incoming Welsh Government to publish a national air quality strategy setting out, early in its term in office, actions within Welsh Ministers' competence which they and other public bodies intend to take in the next five years, against which they can be held to account.

7.51. Furthermore, Section 81A of the amended 1995 Act created a duty on public bodies in England to have regard to the Strategy when exercising any function of a public nature that could affect the quality of air. No such duty currently exists for public bodies in Wales.

### **Costs**

7.52. As it represents the status quo, there would be no additional costs to Welsh Government or any other sector/organisation under this option.

### **Benefits**

7.53. There would be no additional expenditure for Welsh Government or any other sector/organisation under this option.

### **Summary**

7.54. Option one would amount to preservation of the status quo with no additional expenditure for any sector or organisation, including the Welsh Government. The Welsh Government would continue to have a duty to review and, if considered necessary, modify the air quality strategy every five years. However, this review need not result in anything new being published. Local authorities and other public bodies would not need to take account of the Strategy to the extent that public bodies in England are required to do. The five-year review cycle would be set by legislation, which could result in it becoming misaligned with Senedd terms.

## Option two – Strengthen the current legislation

### Description

7.55. Under option two, the existing legislation regarding the air quality strategy in Wales would be amended in three ways:

- Welsh Ministers would be able to amend the five-year review deadline through regulations in the event of an extraordinary Senedd election, or if for any other reason it became desirable to reset the deadline to a specific point in the electoral cycle. Such regulations would be made under the affirmative procedure.
- A duty similar to Section 81A of the Environment Act 1995 would require local authorities, and any relevant public authorities designated under the powers in the Bill, to take account of the strategy when carrying out functions that could impact on air quality.
- Welsh Ministers would be required to publish a consultation whenever they review the strategy. For the purposes of section 80, the Clean Air Plan for Wales is the national air quality strategy which will be reviewed every five years.

### Costs

7.56. Under option two, there will be administrative costs for the Welsh Government associated with carrying out a public consultation exercise every five years (under option one, consultation was discretionary). However, these costs could be small, and limited to staff time, if future consultations are carried out virtually. There could also be costs to public bodies such as local authorities arising from the duty to take account of the strategy when carrying out functions that may affect air quality. However, this would only be the case if such public bodies do not take it into account currently and would not do so without a duty requiring it. Any such costs in future would depend on the amended content of future strategies, which would be developed through the statutory public consultation accompanying each review. Any new burden on local authorities would be subject to full consultation with them and an assessment of any additional burden made. Therefore, the cost to public bodies is unknown at this stage

Table 4 – summary of costs associated with Review and Publication of a National Air Quality Strategy for Wales: Option two – Strengthen the current legislation

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs	~0	-	-	-	~0	~0	-	-	-	~0

Note: Staff cost best estimates are the same for existing duties as for duties amended by the Bill proposals.

## **Benefits**

7.57. Under this option, public bodies in Wales would have to afford the Welsh strategy the same weight that public bodies in England do for the English strategy, enabling stronger action on air quality across Wales. Welsh Ministers would have to publish a consultation on the strategy at least every five years, allowing people to have their say on the Welsh Government's air quality policies. Additionally, the five-year review cycle could be amended so that the deadline falls at an appropriate point in the Senedd electoral cycle without the need for primary legislation.

## **Summary**

7.58. This option makes three key changes to enable the Air Quality Strategy to meet our aspirations for a five-year Clean Air Plan for Wales, through improved transparency and accountability.

7.59. Option two is the preferred option as it builds on the status quo by increasing accountability for, transparency of and engagement with policies to improve air quality.



## **Air Quality Regulations**

7.60. This section of the RIA is to support the provision relating to Air Quality Regulations.

7.61. Two options have been considered for consultation on air quality regulations made for the purpose of Part IV of the 1995 Act:

- Option one – do nothing (baseline); and
- Option two – strengthen the current legislation.

### **Option one – Do nothing**

#### **Description**

7.62. Part IV of the 1995 Act requires the Welsh Ministers to publish a national air quality strategy and established the system for local air quality management for the designation of air quality management areas.

7.63. Section 87 of the 1995 Act contains general provisions that apply to regulations that are made for the purposes of Part IV of that Act.

7.64. Section 87(7) sets out the requirements for consultation in relation to regulations that are made for the purposes of Part IV.

7.65. It requires the Welsh Ministers to consult:

- a) the appropriate agency which, in accordance with section 91(1) of the 1995 Act, means, in relation to Wales, Natural Resources Wales.
- b) such bodies or persons appearing to them to be representative of the interests of local government as they may consider appropriate;
- c) such bodies or persons appearing to them to be representative of the interests of industry as they may consider appropriate; and
- d) such other bodies or persons as they may consider appropriate.

#### **Costs**

7.66. As it represents the status quo, there would be no additional costs to Welsh Government or any other sector/organisation under this option.

#### **Benefits**

7.67. There would be no additional expenditure for the Welsh Government or any other sector/organisation under this option.

## **Summary**

7.68. Option one would amount to preservation of the status quo in terms of how the 1995 Act is drafted, with no additional expenditure for any sector or organisation, including Welsh Government. There would be no change to the persons/bodies the Welsh Ministers are required to consult when making regulations for the purposes of Part IV.

## Option two – Strengthen the current legislation

### Description

7.69. Under option two, the consultation requirements in section 87(7) of the 1995 Act would be strengthened.

7.70. The existing section 87(7) would be disapplied in relation to Wales and a new subsection (7B) would be inserted to apply in relation to Wales when Welsh Ministers are consulting on regulations for the purposes of Part IV of the 1995 Act.

7.71. The new section (7B) requires the Welsh Ministers to consult with:

- a) the Natural Resources Body for Wales;
- b) every local authority in Wales;
- c) the Public Health Wales National Health Service Trust;
- d) every local health board in Wales; and
- e) the public.

### Costs

7.72. Section 87(7) has been largely unamended since the 1995 Act received Royal Assent. Given the subject matter of the regulations that may be made under section 87, the Welsh Ministers would, as is reflective of current best practice in relation to consultation, consult with the public and with the specific named bodies when making regulations for the purposes of section 87 – even if section 87(7) was not amended to make it an absolute requirement. Thus the amendment formalises what would be done, in any event, as a matter of good practice.

7.73. Consequently, there would be no additional costs to Welsh Government or to any other sector or organisation under this option as it formalises what already happens in practice.

Table 5 - Summary of costs associated with Air Quality Regulations: Option two – Strengthen the current legislation

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs	~0	-	-	-	~0	~0	-	-	-	~0

Note: Staff cost best estimates are the same for existing consultation duty as for the consultation duty amended by the Bill proposals.

## **Benefits**

7.74. Amending section 87 of the 1995 Act in the way proposed would have the benefit of strengthening the consultation requirements and reflecting what would happen in practice when regulations are made under section 87.

## **Summary**

7.75. This option amends the consultation requirements in section 87 of the 1995 Act.

7.76. Option two is the preferred option as it strengthens the existing consultation arrangements and reflects what would happen in practice when regulations for the purpose of Part IV of the 1995 Act are made.

## **Local Air Quality Management (LAQM)**

7.77. This section supports the Local Air Quality Management (LAQM) legislative proposals. Academic research (such as [Brunt et al 2016](#), [Barnes et al 2018](#), [Brunt and Jones 2019](#) and unpublished research submitted to Welsh Government by Swansea University (Seller 2019)) has indicated that the LAQM regime in Wales is not operating as effectively as it could and highlights the need for a more proactive, preventative and public health focussed approach. These findings align with recent assessments of LAQM in [England](#), [Scotland](#) and [Northern Ireland](#), as well as issues raised to the Welsh Government by local authorities, third sector organisations and the public verbally and through [consultation responses](#).

7.78. Three options have been considered to achieve the Welsh Government's objective of improving the current LAQM framework for the benefit of current and future generations:

- Option one – Do nothing, business-as-usual scenario;
- Option two – Strengthen current approach through updates to statutory and technical guidance; and
- Option three – Clarify and strengthen LAQM legislation, supported by updated statutory guidance.

### **Option one – Do nothing, business-as-usual scenario**

#### **Description**

7.79. Under this option, the current approach to LAQM would be maintained. This involves no clarification of existing duties or proposal for additional ones. Option one is provided as a baseline for comparison with the potential benefits of other options.

#### **Costs**

7.80. The intention under this option would be to maintain the LAQM regime as it stands with no change in resources to local authorities and no additional costs to the Welsh Government. However, maintaining the current approach will likely result in the continuation of reactionary measures as opposed to preventative ones. As such, the Welsh Government will likely incur costs associated with continued exposure to poor air pollution and related inequalities (as outlined above in the national targets section) in the future. There would be no additional upfront costs to local authorities or other public or private bodies from this option.

## **Benefits**

7.81. There are no identifiable benefits from this business-as-usual option. It maintains the status-quo and presents no upfront costs to the Welsh Government or any other body. However, this option does present a disbenefit as the societal and environmental health costs of air pollution outlined above would remain.

## **Summary**

7.82. Option one is to continue with the current LAQM regime as set out in Part IV of the Environment Act 1995. No new implementation costs to the Welsh Government or local authorities will be realised. However, there is potential for other health and social costs to arise if the LAQM regime is not improved to operate more effectively.

## Option two - Strengthen current approach through updates to statutory and technical guidance

### Description

7.83. This option would maintain the current LAQM legislation but seek to deliver improvements through updated guidance for local authorities. The guidance could include updated approaches to prioritising action and provide advice on preventative measures that can deliver benefits for health and the environment. LAQM reporting templates would also be updated to reflect and facilitate the best practice set out in the new guidance.

### Costs

7.84. Costs of updating the statutory and technical guidance and training local authorities would fall to the Welsh Government. This would likely require the time of one HEO costing a maximum of £52,800, 25% of 1 SEO with a cost of £16,600 (0.25 x £66,400) and £576 in translation costs (6400 total words in [Welsh Government statutory guidance](#) x maximum translation cost of £90 per thousand words). The total cost would therefore approximately be £69,900 which would be incurred in the 2024 – 2025 financial year.

7.85. Additional costs outlined in option three, associated with action implementation, feasibility studies and modelling assessments, could be incurred here depending on the circumstance of each local authority. This option is unlikely to involve any cost to other public or private bodies.



Table 6 – Summary of costs associated with LAQM: Option two - Strengthen current approach through updates to statutory and technical guidance

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Costs	N/A	£69.9k	-	-	-	-	-	-	-	-
<b>Total cost (all transitional)</b>	N/A	<b>£69.9k</b>	-	-	-	-	-	-	-	-

## **Benefits**

7.86. Improved and clearer guidance will make the need for local authorities to take preventative action clearer, with the aim of reducing the occurrence of exceedances and the length of time communities are exposed to higher concentrations of pollution. This may result in reduced costs to health services and the Welsh Government if the actions taken result in improved air quality in Wales. The costed benefits outlined in the target-setting framework section provide an indication of the benefits that could be realised. However, given the limits of the current legislative framework it is difficult to outline the extent to which those benefits would be realised through this option.

## **Summary**

7.87. Option two would strengthen the current regime by updating guidance to give a clearer picture of how local authorities should tackle LAQM in their area. This option intends to encourage preventative action across an area to reduce the likelihood of exceedances. However, this option is likely to be less effective as, while guidance should be followed and adhered to, its effectiveness is likely to be limited by the existing LAQM legislative framework.

## **Option three – Clarify and strengthen LAQM legislation through Environment (Air Quality and Soundscapes) (Wales) Bill**

### **Description**

7.88. This option intends to update the LAQM legislative framework through updated statutory guidance and funding support for local authorities. This includes amending and clarifying the LAQM legislative framework set out in Part IV Environment Act 1995. This will include the introduction of a clearer requirement for local authorities to undertake an annual review, aligning with the existing Annual Progress Report process. The new legislative framework will also require local authorities to include a projected compliance date for the AQMA that has been agreed with Welsh Ministers. Option three will be supported by updated LAQM guidance and updated local authority reporting templates.

### **Costs**

7.89. The estimated administrative cost of £69,900 outlined in option two is likely to be incurred by the Welsh Government in updating guidance and reporting templates and training local authorities. Local authorities already undertake translation of reporting templates so no new costs would be incurred.

7.90. Any additional costs to local authorities are likely to appear in the form of officer time, modelling assessment, feasibility studies and action implementation arising from the projected compliance date proposal. The other amendments proposed amend the existing legislative framework and do not place any new requirements on local authorities, including the annual review amendment, which aligns with the existing Annual Progress Report process.

#### **a) Projecting compliance dates for AQMAs:**

7.91. Local authorities are currently required to develop measures for AQAPs but we have identified that projection of AQMA compliance dates is likely to result in increased costs to local authorities in the form of feasibility studies and action implementation.

7.92. Feasibility studies will be required in order to assess the viability of a compliance date and consider how compliance will be achieved in this time.

7.93. Evidence from local authorities indicates that feasibility studies of this type can cost between £20k and £150k and actions identified in AQAPs will have associated implementation costs. There are a wide range of actions local authorities may choose to implement with varying costs and it is therefore difficult to estimate exactly how much

implementation may cost. However, examples gathered from existing AQAPs include engagement activities costing approximately £10-50k, small to medium infrastructure projects costing between £10k and £750k and large infrastructure projects which could cost upwards of £750k, however it should be noted that infrastructure projects are more likely to be funded through other Welsh Government schemes, such as local transport and active travel funds.

7.94. As an example of potential costs, we estimate that should all local authorities that currently have AQMAs (12) apply for the maximum amount of revenue funding (£150k) and a mid-range implementation cost of £380k (£10k + £750k/2) the total cost would be £6.36m (12 x £150k + £380k). However, these costs would not all fall in one year and would be staggered across financial years as action plan cycles are based on the point at which the AQMA was declared.

b) Funding proposal:

7.95. To fund these potential additional costs to local authorities, we have launched a Local Air Quality Management Support Fund which we have tested through a two-phase pilot scheme to identify benefits and potential issues. The first phase was run between October 2021 and March 2022 which funded a wide range of air quality projects worth £355k across three local authorities. A second phase was run between October 2022 and March 2023 which, at the time of writing, will fund projects worth £100k. Future rounds of the scheme are planned to run across full financial years to maximise delivery time for local authorities with a budget of up to £1million (capital and revenue, the allocation of which may vary). The scheme criteria encourages bids from local authorities that meet one or more of the following:

- **Prevention** – action that seeks to improve air quality and prevent worsening of concentrations and/or an exceedance of legal limits;
- **Mitigation** – action that seeks to improve an existing air quality issue and/or air quality in an Air Quality Management Area (AQMA); and
- **Innovation** – the use of innovative methods or technologies to improve air quality and/or reduce exposure.

7.96. The fund will enable local authorities to bid for funding to support a wide range of LAQM activities, including new costs incurred implementing new legislation and statutory guidance.

7.97. Local authorities have consistently raised staffing as an issue for delivery of the new proposals. To address this, local authorities will be able to bid for additional staff on a fixed-term basis to deliver specific projects through the fund. In terms of maximum costs, funding one full time member of staff at Welsh Government SEO equivalent grade for each local authority would cost £1,460,000 (£66,400 x 22). However, staff costs would vary across years depending on the number of local

authorities that require additional staff for projects, the staff grade required and the project length.

7.98. Following a review of the staff funding available through the grant, considerations of longer-term staff requirements will be explored with local authorities if required.

7.99. The estimated total funding required to cover potential AQMA projected compliance dates and possible bids for additional staff is £7.82m (£6.36m + £1.46m), staggered across financial years.

7.100. Summary: Given the costs outlined above and the different air quality priorities of each local authority, a fund of £1m per year has been created to cover the range of activities local authorities may require support with to deliver a more effective LAQM regime. To avoid double-counting, the cost to Welsh Government for providing the LAQM support fund is presented in the table below and not the local authority costs.

7.101. Administering the grant is likely to require the time of one HEO costing a maximum of £52,800 and 25% of 1 SEO with a cost of £16,600 (0.25 x £66,400). These costs are likely to be incurred for the entirety of the appraisal period.

Table 7 – Summary of costs associated with LAQM: Option three – Clarify and strengthen LAQM legislation through Environment (Air Quality and Soundscapes) (Wales) Bill

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs	£69.4k	£139.3k	£69.4k	£69.4k	£69.4k	£69.4k	£69.4k	£69.4k	£69.4k	£69.4k
Translation costs	-	£0.6k	-	-	-	-	-	-	-	-
LAQM Support Fund (revenue/capital allocation likely to vary)	£1m	£1m	£1m	£1m	£1m	£1m	£1m	£1m	£1m	£1m
<b>Total transitional cost</b>		<b>£70.5k</b>								
<b>Total recurrent cost</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>
<b>Total cost</b>	<b>£1.0694 m</b>	<b>1.0694m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>	<b>£1.0694 m</b>

## **Benefits**

7.102. Proper delivery of these legislative proposals will deliver a more effective LAQM regime. This will result in reducing exposure, protecting the most vulnerable members of society and striving to achieve the lowest reasonably practical levels of air pollution. This will more effectively protect public health and so is likely to reduce related health and social costs currently incurred. Costs associated with preventative action may be lower than those associated with reactive measures due to more effective planning. Therefore, a preventative approach is likely to increase the value for money of projects. Although it is difficult to accurately estimate these benefits given the range of activities local authorities may undertake, the costed benefits of addressing air pollution given in the national targets section provide an indication of potential benefits realised.

## **Summary**

7.103. Option three is the preferred option as it will facilitate a more effective LAQM regime. The costs of improving the legislative regime are likely to be significantly less than the health and social costs associated with poor air quality. Potential increased costs to local authorities in delivering option three have been investigated and resulted in the development of the Local Air Quality Management Support Fund which will provide ongoing support and funding.

## **Smoke Control**

7.104. This section of the RIA is in relation provision on smoke control for potential inclusion in the Bill. The Bill will introduce civil monetary penalties to replace the current criminal sanctions in relation to the emission of smoke in a smoke control area (SCA), which can be levied by local authorities. The existing criminal sanctions in the Clean Air Act 1993 (CAA 1993) are difficult to administer and rarely result in prosecution and civil sanctions will provide a more proportionate and effective sanction than the current criminal one, to seek out and address air quality issues in the soonest possible time.

7.105. Three options have been considered to achieve the Welsh Government's objective of improving the use and enforcement of smoke control legislation to improve air quality:

- **Option one** – Do nothing, business-as-usual scenario;
- **Option two** – Strengthen current approach by issuing guidance; and
- **Option three** – Update smoke control legislation through Environment (Air Quality and Soundscapes) (Wales) Bill and issue guidance.

### **Option one – Do nothing, business-as-usual scenario**

#### **Description**

7.106. Under this option, the current approach to smoke control as set out in Part 3 of the CAA 1993 would be maintained. This would mean no changes to existing local authority duties.

#### **Costs**

7.107. This option would maintain the current smoke control regime. There would be no change in resources to local authorities and no additional costs to the Welsh Government. Maintaining the current approach is likely to result in the continuation of low take-up and use of smoke control orders.

7.108. There would be no additional cost to local authorities or other public or private bodies from this option.



## **Benefits**

7.109. There are no identifiable benefits from this business-as-usual option. It maintains the status-quo and presents no cost to the Welsh Government or any other body. This could be viewed as a benefit but may be offset by the potential health and social costs (as outlined in the national targets section) incurred as a result of a missed opportunity to improve the smoke control regime and reduce air pollution.

## **Summary**

7.110. Option one is to continue with the current smoke control regime as set out in Part 3 of the CAA 1993. No new implementation costs to the Welsh Government or local authorities will be incurred. However, there is a potential for health and social costs to rise if the smoke control regime is not improved.

## **Option two – Strengthen current approach by issuing guidance**

### **Description**

7.111. This option seeks to improve the implementation and enforcement of current smoke control legislation by issuing new statutory guidance to local authorities. The statutory guidance could include raising awareness of the legislation and of the impacts of poor burning practice to encourage better behaviour.

### **Costs**

7.112. The cost of creating and publishing guidance for local authorities on smoke control will fall on the Welsh Government. Drafting of the guidance, consultations with stakeholders and publication of responses and final documents are expected to take 24 months during 2023-2024 and 2024-2025 and 30% time of one HEO grade staff member. With on-costs, this equates to £15,800 per year.

7.113. Local authorities may incur costs if they choose to implement action set out in the guidance, although these costs cannot be quantified as it is not possible to predict the individual extent of new guidance uptake by each authority. However, local authorities could access financial support to implement action outlined in the guidance through the LAQM Support Fund outlined above in paragraph 7.100 and Table 7 (budget of up to £1m per annum) and the promoting awareness budget outlined above (budget of up to £500k per annum).

7.114. With this option, the current criminal regime will still apply to any smoke emitted from a chimney in a SCA, so it is likely any enforcement action by local authorities will remain low due to the low chance of securing a conviction. This means that smoke from businesses and households within SCAs could continue to flow unchecked and contribute to poor air quality in the local area.

Table 8 – Summary of costs associated with Smoke Control: Option two – Strengthen current approach by issuing guidance

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs	£15.8k	£15.8k	-	-	-	-	-	-	-	-
Translation of guidance	-	£600	-	-	-	-	-	-	-	-
Local authority costs to follow guidance	-	-	*	*	-	-	-	-	-	-
<b>Total cost (all transitional)</b>	<b>£15.8k</b>	<b>£16.4k</b>								

\*Cannot be quantified, will depend on the uptake of each local authority but support will be available from the LAQM Support Fund.

## **Benefits**

7.115. There is a strong body of [evidence](#) linking increased mortality to long-term exposure to particulate matter and this pollutant can be emitted from chimneys when burning solid fuels. Improved and clearer guidance will make the need for local authorities' action on smoke control more explicit. Increased uptake, implementation and enforcement of the smoke control regime may reduce air pollution and consequently result in reduced costs to health services.

## **Summary**

7.116. This option intends to provide guidance to local authorities to encourage preventative action across an area to reduce the burden and impact of PM<sub>2.5</sub> in the air.

## **Option three – update Smoke Control legislation through Air Quality and Soundscape Bill and issue guidance on Smoke Control**

### **Description**

- 7.117. This option intends to make it easier for local authorities to tackle instances of smoke being emitted from chimneys in SCAs. The Bill will introduce civil monetary penalties to replace the current criminal sanctions in relation to the emission of smoke in a SCA, which can be levied by local authorities. We also propose to remove the defences (i.e. the use of an exempt appliance or an authorised fuel) which are preventing local authorities from tackling domestic burning. In these circumstances, the civil sanctions regime will provide a more proportionate and effective sanction than the current criminal one, to seek out and address air quality issues in the soonest possible time. The civil sanctions regime will be front-loaded with a range of options available to the local authority, including education, sharing of best practice and other behavioural change tools.
- 7.118. 7.117. This option also includes the removal of the provision for reimbursement of adaptation costs for pre-1964 homes when a new smoke control area is created or an existing smoke control area is amended.
- 7.119. Advice on the provisions of the Bill and tools and techniques to improving air quality could be provided through Statutory and Technical Guidance. Local authorities would need to update their smoke control strategies by having regard to this guidance.
- 7.120. This option intends to update the CAA 1993 to include the above provisions.

## Costs

- 7.121. The costs of smoke control would be maintained under the current provisions of the CAA 1993, whereby local authorities support the cost of adaptations when they identify a new SCA and Welsh Ministers support these costs if they direct a local authority to declare a SCA. However, we have removed the provision for reimbursement by local authorities of adaptation costs for pre-1964 homes when a new smoke control area is created, or an existing smoke control area is amended. There will be no cost to homes or businesses (such as pubs and hotels) in existing SCAs who are already burning using authorised fuels (e.g. smokeless solid fuel) or exempt appliances (e.g. stoves approved for use in an SCA) as they should not be producing smoke from their chimneys. Homes and businesses that are emitting smoke from their chimneys by burning controlled solid fuels (currently known as unauthorised fuels) in non-exempt appliances (e.g. an open fireplace) are already committing an offence under current legislation, and as such these proposed changes do not represent an increase in costs.
- 7.122. There is a possibility that some homeowners are unaware they are in a SCA and could unknowingly be using the wrong fuel, burning it incorrectly and/or using non-compliant appliances. Of the four local authorities that currently have SCAs, only Newport lists the streets that come within the boundaries of its SCA on its website, the other three do not. This option includes guidance to local authorities which could potentially include recommended strategies for raising public awareness of the requirements of SCA and a behavioural change campaign to encourage and promote best practice around solid fuel burning. The cost of creating and publishing guidance for local authorities on smoke control for guidance will fall on Welsh Government. Drafting of the guidance, consultations with stakeholders and publication of responses and final documents are expected to take 24 months during 2023-2024 and 2024-2025 and 30% time of one HEO. With on-costs, this equates to £15,800 per year.
- 7.123. At the higher end, the cost of translation for the guidance is likely to be around £630 (on the estimate of the guidance running to 7000 words with the cost of translation being £90 per 1000 words).

- 7.124. Both the provision of guidance and the introduction of civil penalties constitute a potential additional burden for those local authorities that have an SCA. One of the four local authorities with an SCA responded to our request for information on costs incurred tackling smoke emissions. Thirteen complaints of smoke had been received in the last five years though none of these have resulted in prosecution. As a liberal estimate, we believe the proposed changes would result in no more than 10% additional time for an enforcement officer in those local authorities with SCAs. Taking the average wage of an enforcement officer, £35,400, and adding 30% in on-costs we estimate an increase in demand on enforcement officers' time of 10%, would cost each local authority £4,600 per annum on average, resulting in an annual total cost of £18,400 across Wales, commencing in 2024-25.
- 7.125. Local authorities may incur costs if they choose to implement action set out in the guidance, although these costs cannot be quantified as it is not possible to predict the individual extent of new guidance uptake by each authority. However, local authorities could access financial support to implement action outlined in the guidance through the LAQM Support Fund outlined above in paragraph 7.100 and Table 7 (budget of up to £1m per annum) and the promoting awareness budget outlined above (budget of up to £500k per annum). Welsh Government could also develop communications material to be used across Wales through the promoting awareness budget.
- 7.126. It is possible local authorities will deem current funding is insufficient to deliver on the support for improvements to appliances allowed under the CAA 1993, but this will not be quantifiable until after the guidance has been published and will depend on the content of the local authorities' updated Smoke Control Strategies.
- 7.127. We do not consider there to be a substantive impact on the Justice System with option three and the Justice Impact Assessment reflects this.

Table 9 – Summary of costs associated with Smoke Control: Option three – update Smoke Control legislation through Air Quality and Soundscape Bill and issue guidance on Smoke Control

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs	£15.8k	£15.8k	-	-	-	-	-	-	-	-
Translation of guidance	-	£630	-	-	-	-	-	-	-	-
Local authority costs to enforce new regime	-	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k
Local authority costs to follow guidance	-	-	*	*	-	-	-	-	-	-
Total transitional cost	£15.8k	£16.43k								
Total recurrent cost		£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k	£18.4k
<b>Total cost</b>	<b>£15.8k</b>	<b>£34.83k</b>	<b>£18.4k</b>	<b>£18.4k</b>	<b>£18.4k</b>	<b>£18.4k</b>	<b>£18.4k</b>	<b>£18.4k</b>	<b>£18.4k</b>	<b>£18.4k</b>

\*Cannot be quantified, will depend on the uptake of each local authority but support will be available from the LAQM Support Fund



## Benefits

- 7.128. Civil monetary penalties will provide a more proportionate and effective sanction than the current criminal regime which will seek out and address air quality issues in the soonest possible time. A Welsh Government [review](#) of civil sanctions for environmental offences in 2015 reported the use of civil sanctions deterred non-compliance, provided an effective and fair way of enforcement, reducing risks of environmental harm and prevent harm from occurring or continuing.
- 7.129. Delivery of these legislative proposals will enable a smoke control regime to support a preventative and health-focussed approach. Under the new regime, action will be focussed on best practice and benefits for public health.
- 7.130. While this option results in greater costs to the Welsh Government, the benefits to the environment, nature, and human health by reducing the risk of ecosystem, climate and human health problems resulting from polluting smoke have been well [documented](#).
- 7.131. Whilst there is uncertainty around the exact contribution, domestic and commercial burning of solid fuels is considered to be the largest source of the Wales levels of PM<sub>2.5</sub>, according to a [report](#) commissioned by Defra. Reducing exposure to PM<sub>2.5</sub> which can be emitted from chimneys when burning certain types of solid fuels, will protect the most vulnerable members of society and help to achieve the lowest reasonably practical levels of PM<sub>2.5</sub>.
- 7.132. Removal of the provision for reimbursement of adaptation costs for pre-1964 homes when a new smoke control area is created, or an existing smoke control area is amended, may encourage local authorities to use this legislation to tackle particularly problematic areas and improve air quality in their vicinity.
- 7.133. As with option two, improved and clearer guidance will enable local authorities to reduce air pollution. Guidance may also result in reduced costs to health services if the actions taken result in improved air quality in Wales.

## Summary

- 7.134. The difference between options two and three is the addition of a civil sanctions regime to facilitate easier tackling of smoke emissions from chimneys in SCAs and the removal of certain adaptation costs to encourage the creation of new smoke control areas. This is the preferred option as it looks at a wider approach to tackling smoke emissions through public awareness and sharing of best practice to promote behaviour change, with a monetary penalty option applied as a last resort. This holistic approach to tackling emissions of smoke in

SCAs could reduce the level of health and social costs associated with poor air quality.

## Vehicle Emissions: Trunk Road charging schemes

7.135. This section of the RIA supports Bill proposals relating to Clean Air Zone/Low Emission Zone (CAZ/LEZ) powers through:

- the creation of dedicated CAZ scheme powers for trunk roads;
- revision to current provisions on the use of net proceeds from trunk road schemes; and
- the commencement of existing powers in relation to local authority charging schemes.

7.136. Updated legislation aims to enable, where required, the efficient introduction of effective CAZs to facilitate air quality compliance and improvements in the vicinity of trunk roads where action is required to tackle air pollution hotspots.

7.137. The draft Clean Air Zone Framework for Wales describes CAZs as; “A geographical target area where a range of co-ordinated actions are applied with the purpose of ensuring, in the soonest time possible, a significant reduction in public and environmental exposure to harmful airborne pollutants from all sources.” A ‘charging’ CAZ includes a fee structure which applies to the drivers of non-compliant vehicles driving within the identified area.

7.138. Below are the options considered in relation to this section which seeks to better enable the introduction of CAZs where evidence supports their application to tackle pollution hotspots:

- **Option one** – Do nothing, business-as-usual scenario;
- **Option two** – Develop CAZ Framework and commence local authority charging powers under part III of the Transport Act 2000; and
- **Option three** – Create dedicated trunk road CAZ powers under part III of the Transport Act through the Clean Air Bill, develop CAZ Framework and commence local authority charging powers.

## Option one – Do nothing (baseline)

### Description

7.139. Under this option, the current legislation under Part III of the Transport Act 2000 (Road user charging and workplace parking levy) would be maintained. Although the Act provides for the creation of local charging schemes, these powers have not yet been fully commenced in Wales. This means that local authorities cannot currently create a local charging scheme either by themselves, or in a regional partnership with neighbouring authorities. Under the 'do nothing' scenario, these powers would not be commenced alongside Bill powers. Provisions for trunk roads would remain limited to bridge and tunnel charging only (where at least 600 metres in length), and net proceeds from trunk road charging schemes could only be used for transport policies or proposals, limiting investment flexibility. This option is provided for baseline comparison.

### Costs

7.140. No additional administrative or compliance costs arise from this option as it represents no change to current circumstances. However, there are costs in terms of the missed opportunity to utilise Road User Charging (RUC) schemes to achieve substantial reductions in polluting vehicle emissions.

7.141. Under part III of the Transport Act 2000, Welsh Ministers may introduce a trunk road charging scheme if a road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length (section 167). The intention under this option would be to maintain the current regime so no additional costs to business, the public sector, charities or the voluntary sector would be incurred. However, costs associated with continued public exposure to air pollution, and failure to meet air quality targets or statutory limits, may continue to be experienced without an effective RUC regime that can enable schemes to improve air quality.

7.142. Without the proposed legislation, and commencement of local authority powers under the Transport Act 2000, any future CAZ, on either local or trunk roads, could not include a charging element and, therefore, would be less effective at reducing polluting emissions. The Independent Review of Road User Charging in Wales notes that; "the design of RUC schemes have real potential to influence air quality." Less efficient enforcement through non-charging schemes would result in the need to adopt alternative, and potentially less effective, mitigations. This would mean that higher levels of air pollution at hot spots may be experienced over a longer period and there could be a more sustained failure to achieve statutory limits for existing exceedances of nitrogen dioxide (NO<sub>2</sub>) pollution. There would also be the missed opportunity to generate revenue from RUC which could be

re-invested in schemes to support sustainability and further air quality improvement.

7.143. In 2018, Welsh Government consulted on a draft Clean Air Zone Framework for Wales which defines how schemes, including those that apply a charge, should be developed. Without the Bill proposals, the scope of any final guidance that may be published would be limited as advice would not extend to the application of charging scenarios in the development of CAZs on trunk roads.

7.144. It is not possible to quantify the costs to public health of not creating powers that would enable CAZs to be introduced in Wales as no specific schemes will directly arise. However, there are several examples of CAZs in England which can provide some level of illustration of the effectiveness of such schemes in reducing air pollution. A nearby example is Birmingham, where a CAZ went live in the city centre in June 2021. In the first six months of operation, the scheme was found to have contributed to an overall reduction in the levels of NO<sub>2</sub> by 13%, which is a substantial reduction. Evidence shows lower air pollutant concentrations are linked to lower health risks.

## **Benefits**

7.145. This “do nothing” option maintains the status quo. Consequently, the potential requirement for compliance with vehicle emissions standards, upgrading vehicle fleets and its associated disruption to meet CAZ requirements, will be removed. This would be a benefit to some motorists (those using older and more polluting vehicles) in terms of avoidance of costs arising from CAZs, e.g. through charges or fines, vehicle upgrade costs, or costs associated in diverting to alternative roads where CAZ charges do not apply.

## **Summary**

7.146. Option one results in no new implementation costs to the Welsh Government or local authorities. However, charging CAZs provide for a substantial tool to tackle polluting vehicle emissions and this option would mean that they could not be introduced on the trunk road network (unless as part of a bridge or tunnel charging scheme), or on local roads as local authority powers to introduce schemes would not be fully commenced alongside the Bill (but may still be taken forward as a separate strand of work, and to a different timescale). The costs of this option must be considered in terms of the limitation it places on flexibilities to introduce CAZs to support substantial action on polluting vehicle emissions, meaning the potential for health and social costs of poor air to continue to be experienced.

## **Option two - Develop CAZ Framework and commence local authority charging powers under part III of the Transport Act 2000**

### **Description**

7.147. Under this option, the current Road User Charging legislation under part III of the Transport Act 2000 would be maintained (as applying to bridges and tunnels), and local authority powers would be commenced through subordinate legislation. Welsh Government would update and publish a final Clean Air Zone Framework for Wales to govern the development of local CAZs, ensuring these are applied in the most effective way to maximise air quality benefits and ensure they are applied fairly and equitably. This option would not, however, enable charging CAZs to be introduced on the trunk road network, thereby limiting options to tackle hot spots and persistent high levels of NO<sub>2</sub> where statutory limits are being exceeded.

### **Costs**

7.148. The costs for commencing local authority RUC powers and developing the Clean Air Zone Framework for Wales (guidance) will be administrative and will be met by Welsh Government. Commencement may be undertaken by order at any point depending on resource capacity. The costs for commencing the order would be in the region of £1,500, reflecting the minimal drafting and administrative time required. Assuming this was taken forward at an early opportunity (not tied to the Bill timetable), the order could be made during the 2024-25 financial year alongside the publication of the guidance framework. Costs for developing the guidance would be in the region of £30,000, reflecting staff time to draft the document along with any necessary engagement and/or consultation.

7.149. Neither measure under this option would directly lead to the introduction of charging schemes as local authorities would not be under any duty to consider or introduce them. However, they may choose to do so as a substantial means of tackling persistent air quality issues alongside roads for which they are the relevant authority.

- 7.150. Costs to local authorities associated with any future charging scheme would arise in the form of modelling, assessments and feasibility studies for implementation, and subsequent costs associated with the necessary charging infrastructure and the establishment of 'back office' functions. There would also be an expectation that funding would be available to support mitigations for those impacted by a proposed CAZ. This could, for instance, include grants to upgrade public transport to compliant emissions standards, or help with travel costs through a mobility credits scheme. Overall costs to local authorities could vary greatly depending on the geographical extent of the CAZ, the location, vehicles captured, any mitigations put in place, etc.
- 7.151. Some motorists would also incur increased costs should their vehicles not be compliant with the stipulated emissions standards set out in the Clean Air Zone Framework for Wales. In such a case, motorists may choose to avoid the CAZ, potentially by taking a diversionary route, for example, or may choose to upgrade their vehicles to a compliant standard.
- 7.152. All of these costs would be unique to a particular scheme, and it is not possible to accurately quantify the costs here as no specific schemes are currently proposed. Should local charging schemes be created as a result of the commencement of local authority powers through this option, a full assessment of costs and benefits will be undertaken through the RIAs for the proposed schemes.
- 7.153. Although it is unrealistic to apply a typical cost, using the example of Birmingham's CAZ, UK Government provided an Implementation Fund of £17.845m for the infrastructure costs, and £50.861m in Clean Air Fund to deliver measures to mitigate the impact of the CAZ on specific socio-economic groups. The CAZ covers the area inside (but not including) the A4540 Middleway ring road which is around 1 mile from the centre of the city, In the Full Business Case (FBC), operating income/expenditure for 2022/23 was projected to show an income of £23.052m, and expenditure of £4.230m (a net income of £18.822m). The FBC for the Bath CAZ identified an implementation capital cost of £24.3m and a further capital requirement of £14.2m to support expenditure on mitigation measures. Bristol's CAZ FBC identified capital costs of £44.3m for scheme implementation.,

- 7.154. This option will not create CAZ powers for trunk roads through the Bill which will mean that we will remain reliant on a more limited, and potentially less effective, range of mitigations which may be more costly and disruptive to deploy. For instance, the cost of providing air quality barriers over a length of trunk road could be very high given the potential 9 metre height of such barriers and the need for substantial foundations. Barriers have the potential to deliver only small reductions in exposure alongside busy trunk roads, and less effective measures such as this would mean continued exposure to higher concentrations of pollutants.
- 7.155. The estimated cost for supply and installation for an acoustic barrier is approximately £500 per linear metre, based on an A40 noise mitigation scheme delivered in 2019. Consultants have advised that an air quality equivalent barrier could cost between 30-50% more than this, i.e. up to £750 per linear metre. These costs do not include design, ground investigation, traffic management, etc, as these will vary greatly from scheme to scheme.
- 7.156. Between 2015-16 a trial was undertaken of air quality barriers near junction 18 of the M62 at Greater Manchester. This involved installing a pair of 100 metre barriers, each at 4 metre height with the height on one side subsequently being increased to 6 metres. The costs of this project were forecast at the outset to be £2.5m. A large number of air quality monitoring stations were installed around the barriers and at control sites. The results were conflicting and did not support a definitive conclusion that NO<sub>2</sub> concentrations reduced behind either the 4 metre or 6 metre barriers.

## Benefits

- 7.157. The commencement of existing local authority RUC powers through secondary legislation will provide for a tool which can deliver a method of transport demand management. Direct emissions reductions can be achieved by reducing reliance on cars, and through activity to support active travel alternatives. RUC schemes have significant potential to reduce costs associated with public exposure to poor air. A study undertaken by [Public Health England](#) found that “in England, the total costs due to NO<sub>2</sub> to the NHS and social care is estimated to be £60.8million by 2025, and £230million by 2035”.
- 7.158. The Independent Review of Road User Charging in Wales found that “RUC can be an excellent tool to help the Welsh Government and Welsh local authorities deliver a more equitable, efficient and sustainable transport system directly for all road users and for others across the wider transport system. Furthermore, in the spirit of the Well-being of Future Generations Act<sup>5</sup>, it can help Government achieve wider economic, societal, cultural and environmental priorities such as improving air quality, sustainability and benefiting ‘placemaking’ and health”.



7.159. The publication of a Clean Air Zone Framework for Wales will support local authorities in developing CAZs to ensure effective and efficient deployment to address local air quality issues. CAZ schemes can support local transport and environmental policies and provide for an effective tool to help achieve air quality standards and objectives within Air Quality Management Areas. Income streams from charges will provide local authorities with greater opportunities for investment in sustainable transport measures.

## **Summary**

7.160. This option takes beneficial steps in the direction of air quality improvement by commencing powers available to local authorities to combat local pollution problems. Advice provided through the publication of a Clean Air Zone Framework for Wales will also help ensure local CAZ schemes can be designed to maximise their effectiveness, whilst ensuring due consideration of any unfair impacts.

7.161. This option will not enable the application of CAZs on trunk roads, which means trunk road charging powers will remain limited to bridge and tunnel-based schemes only. CAZs would be rendered less effective as a means of tackling polluting vehicle emissions on trunk roads without the penalty of charges for the most polluting vehicles. It would also reduce our ability to encourage behaviour change, such as upgrading to cleaner vehicles or using public transport alternatives.

## **Option 3 - Create dedicated trunk road CAZ powers under part III of the Transport Act through the Environment (Air Quality and Soundscapes) Bill 2023, develop CAZ Framework and commence local authority charging powers**

### **Description**

7.162. To meet commitments outlined within our Clean Air Plan, and to ensure that powers are readily available in Wales to introduce schemes with effective charging provisions on local authority roads and trunk roads, the following actions would be required:

- Commencement of relevant provisions under the Transport Act 2000 to enable local authorities (either by themselves, or in a regional partnership with neighbouring Authorities) to fully implement charging schemes.
- Creation of a new CAZ power for trunk roads through the Clean Air Bill, allowing for an additional type of charging scheme under part III of the Transport Act 2000 – ‘schemes for reducing or limiting air pollution in the vicinity of a road’.
- Ensure net proceeds from air quality charging schemes on trunk roads may be used for a wider range of measures not restricted to transport policies and proposals. This would be achieved by extending the flexibility of Ministers to allocate proceeds to best meet priorities at any given point in time. Coupled with this flexibility would be a duty on Ministers (where a trunk road charging scheme is introduced wholly, or partly, for air quality purposes) to set out the measures that would be funded by a charge, and how each measure will address air quality (including where measures would have a neutral effect). The amendments introduced by the Bill do not impact on the existing hypothecation arrangements for bridge and tunnel charging schemes.

## Costs

- 7.163. The costs for creating the legislation and developing the finalised Clean Air Zone Framework for Wales would be mainly administrative and would be met by Welsh Government. Costs for developing the guidance are expected to be in the region of £30,000, with expenditure expected to fall within the 2024-25 financial year. This is based on approximately three months of SEO time and three months of HEO time.
- 7.164. As outlined for option two, costs for introducing charging schemes would only arise should it be accepted that there is a case for such schemes either on local roads or on the trunk road network. Option three, therefore, would not directly create any costs to other bodies, or to the public. However, it will enable RUC schemes to be introduced, and such schemes, if introduced in the future, would entail a cost to some road users associated with compliance. For example, drivers of non-compliant (the most polluting) vehicles may incur the costs of upgrading to a compliant vehicle, or they may continue to use their existing (non-compliant) vehicle and pay the fee levied by a CAZ scheme. This fee may vary between different schemes, but, for illustrative purposes, a daily charge ranging between £3/£5/£8 was used for non-compliant private cars in a stated preference survey undertaken during summer 2021 for M4 Newport and A470 Pontypridd CAZ scoping studies. In addition, the survey set an LGV charge of £9 and an HGV charge of £50.
- 7.165. As set out in option two, there would also be a range of costs that would be incurred by Welsh Government, or local authorities, in developing scheme proposals and providing for the necessary infrastructure and back-office functions. A budget would also need to be considered for mitigations funding to help those most impacted by a proposed scheme.
- 7.166. Given the uncertainty around where and when any future charging scheme might be implemented, it is not possible to provide a best estimate of the potential costs at this stage, the costs are therefore unknown. The range of potential costs arising from implementation of charging schemes will be considered in detail within future RIAs for specific schemes should they arise.

Table 10 – Summary of costs associated with Vehicle Emissions: Trunk road charging schemes: Option 3 - Create dedicated trunk road CAZ powers under part III of the Transport Act through the Environment (Air Quality and Soundscapes) Bill 2023, develop CAZ Framework and commence local authority charging powers

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Costs	-	£30k	-	-	-	-	-	-	-	-
<b>Total cost (all transitional)</b>	-	<b>£30k</b>	-	-	-	-	-	-	-	-

## Benefits

- 7.167. These proposed legislative changes would ensure Welsh Government, and local authorities have clear powers to introduce a charging scheme for the substantial improvement of air quality on roads for which they are the relevant traffic authority. The proposed trunk road provisions coupled with commencement of local authority RUC provisions under Part III of the Transport Act 2000 would expand the tools available to support demand management and emissions reduction. Income from trunk road charging schemes would be available to support a range of priorities not limited to transport measures, with a focus on assessing investments against their expected impact on air quality.
- 7.168. This option is aligned with Llwybwr Newydd: Wales Transport Strategy, which sets out an ambition for a transport system which is good for people and communities, contributing to a more equal and healthier Wales. Also, a transport system that is good for the environment, contributing to a more resilient and globally responsible Wales.
- 7.169. Charging Clean Air Zones can be an effective means to support behaviour-change, encouraging travellers to make more sustainable choices. With a carefully defined fee structure, and fines for non-compliance, drivers of the most polluting (non-compliant) vehicles are encouraged to upgrade, change travel mode, cancel unnecessary journeys, or take alternative routes to avoid charges, thereby alleviating the impact of polluting vehicle emissions on the most polluted areas. This can improve the quality of life for those living in, or visiting, the designated area and reduce impacts on health conditions arising from poor air, reducing pressures on local health services. There are further health benefits arising through increasing the numbers of people using active travel alternatives. The [Full Business Case](#) (FBC) for Birmingham's CAZ identified that the proposed charging levels would "act as a significant incentive to individuals and companies to upgrade their vehicles". Bristol City Council's [FBC](#) identified increased public transport take-up as an expected benefit. One of the stated aims of [Bath's CAZ](#) was to reduce vehicle emissions "through behavioural change and fleet change", because road transport was identified as "the primary source of poor air quality in Bath".
- 7.170. The [six-month report](#) on the expanded Ultra-Low Emission Zone in London estimates that "harmful concentrations alongside roads in inner London are estimated to be 20 per cent lower than they would have been without the ULEZ and its expansion. In central London, NO<sub>2</sub> concentrations are estimated to be 44 per cent lower than they would have been".

7.171. Assessment of potential CAZ options at M4 Newport and A470 Pontypridd to support compliance with statutory nitrogen dioxide limits is ongoing. In the meantime, no commitment has been made to introduce a CAZ at either location.

## **Summary**

7.172. Option three is the preferred option, providing the opportunity to ensure the most effective tools are available to meet the challenge of tackling polluting vehicle emissions at air pollution hotspots. These include Air Quality Management Areas and locations exceeding statutory pollutant limits. This option will support full commencement of local authority RUC powers and it creates a power to enable CAZs to be introduced on trunk roads where there is compelling evidence that they will be effective in tackling known pollution issues. Net proceeds would be available to support priorities not restricted to transport policies and proposals, including air quality measures that could address the sources contributing to poor air in hotspot areas, removing the need for the CAZ over time. A Clean Air Zone Framework for Wales will be published to guide the development of CAZs on both trunk roads and local roads, ensuring, as far as possible, a level of consistency in their application, and a best practice approach to addressing the potential for inequities.

## **Vehicle Emissions: Stationary Idling Offence**

7.173. This section of the RIA is to support the proposals relating to anti-idling within the Environment (Air Quality and Soundscape) Bill.

7.174. Three options have been considered to achieve the Welsh Government's objective of improving the current approach for the benefit of current and future generations:

- **Option one** – Do nothing;
- **Option two** – Strengthen the current approach through new guidance; and
- **Option three** – Amend the current penalties regime as well as issue supporting guidance for local authorities.

### **Option one – Do Nothing, business as usual scenario**

#### **Description**

7.175. Under this option, the status quo would be maintained. The current legislative framework applicable to Wales is formed in part by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003. These set out the anti-idling legislation available to local authorities to tackle idling vehicles, for example the power to enforce anti-idling. Under these regulations an idling offence carries a Fixed Penalty Notice (FPN) of £20.

7.176. Option one is provided as a baseline for comparison with the potential benefits of strengthening the current legislative framework.

#### **Costs**

7.177. There would be no additional costs to local authorities or Welsh Government under this option. However, we want to minimise risk to vulnerable receptors (such as children, the elderly, and the medically vulnerable) from emissions by tackling unnecessary vehicle idling in hotspots.

7.178. In relation to air pollution more generally, there will be increased costs over time if the adverse health effects resulting from poor air quality take effect and the issues around poor air quality, health and inequalities are not addressed.

7.179. [Idling can be an issue](#) where there are regular occurrences of concentrated and sustained idling. It can be exacerbated by older vehicles with less effective after treatment systems (where diesel exhausts emitted by the engine are not cleaned as well as in more modern vehicles prior to being relayed through the tailpipe to the air outside). Examples of such occurrences could be idling outside schools (especially as concern for children's health is a common theme in relation to the impacts of idling); idling in city/town centre transport hubs (bus stations); idling by taxis (for example, outside train stations or health care settings); idling by private motor cars outside schools; or idling by private motor cars outside shopping centres or level crossings etc. The increased costs of inaction would encompass health care costs; increased social costs; and the costs of sick leave and the resultant impact on economic productivity.

### **Benefits**

7.180. There would be no additional expenditure for local authorities.

### **Summary**

7.181. Option one would amount to the preservation of the status quo with no additional expenditure for local authorities. However, we would lose the opportunity to minimise risk to vulnerable receptors in idling hotspots. In relation to air pollution more generally, the costs to health and social care services would be likely to increase in future years in order to deal with the health impacts of poor air quality.



## **Option two – Strengthen and re-emphasise current approach through new guidance**

### **Description**

7.182. Under this option new guidance would be issued by the Welsh Ministers to local authorities in relation to anti-idling. The guidance would be issued under section 88(1) of the Environment Act 1995. The guidance would, amongst other things, point to the benefits of focusing on protecting vulnerable receptors and targeting idling hot spots where concentrated, sustained idling occurs. This would minimise risk to the most vulnerable in society, such as children or those in health care settings or in residential care homes.

### **Costs**

7.183. The cost of creating and publishing guidance will fall on the Welsh Government. Drafting of the guidance, consultations with stakeholders and publication of responses and final documents are expected to take 12 months and 30% of the time of one HEO grade staff member. With on-costs, this equates to £15,800.

7.184. At the higher end, the cost of translation for the guidance is likely to be around £630 (on the estimate of the guidance running to 7000 words with the cost of translation being £90 per 1000 words).

7.185. There will be some revenue costs expected for local authorities to update their anti-idling strategies, in line with the published guidance. Local authorities may deliver a public awareness campaign to promote best practice in the community, based on the detail within the guidance. These costs are difficult to quantify as the mechanics of delivering the public awareness campaign have yet to be decided. However, indicative costs based on Lambeth Council's decision to enforce anti-idling in 2020 may be provided. The development and erection of information signs across Lambeth, particularly around schools and in hot spots, cost £15k while further communication activities to promote anti-idling cost £3.5k.

7.186. In terms of air pollution more generally, additional health and social costs will be incurred if action is not taken to address air pollution. It is not possible to predict the individual extent to which each of the local authorities will adopt anti-idling strategies. This makes it hard to precisely quantify the overall costs pertaining to public awareness campaigns although indicative cost may be provided (as above).

7.187. This option is unlikely to involve any cost to businesses or private homeowners. All identified costs would fall within the 2024/2025 financial year.

7.188. It can equally be argued that the guidance on developing and implementing anti-idling measures would lead to a diminishing need for enforcement. By way of example, the guidance could recommend ways in which local authorities could work with schools to promote anti-idling awareness, education and behaviour change. Similarly, healthcare settings could implement anti-idling toolkits. The resources for such work already exist, such as the following [Toolkit Form Local Authorities \(idlingaction.london\)](https://www.idlingaction.london/).

7.189. In Wales, the [societal cost](#) of air pollution from health service costs and lost work days is estimated to be £1 billion each year. There would be potential for local authorities to share costs around the publicity and implementation phases to include officer training and consistency of enforcement exercises. It is worth emphasising that the ultimate aims of these provisions are cleaner air and a healthier environment for all rather than revenue generation.

## Benefits

7.190. Improved and clearer guidance will make the need for local authorities' action more explicit. We envisage that the guidance will comprise a number of elements: advice to local authorities on awareness-raising and achieving behaviour change; advice on developing and implementing anti-idling strategies; signposts to existing resources, such as anti-idling toolkits; and advice on incorporating anti-idling strategies into a wider package of complementary interventions. The guidance will also explain the interconnections between air quality and noise and how improving air quality can bring about benefits in terms of soundscape. This will improve the regime. Guidance may also contribute towards reducing costs to health services if the actions taken minimise risk to vulnerable receptors and contribute towards improved air quality in Wales.

7.191. Issuing guidance would complement the Welsh Government's overall policy of reducing emissions from transport. There is some evidence to suggest that anti-idling measures can be most effective if included in a package of different but complementary measures, all with the purpose of preventing or reducing air pollution. In this context, there can be potential for achieving cumulative reductions in emissions, over time, across a range of different measures applied in tandem. In this way, the application and implementation of anti-idling measures would contribute to better health and the reduction of health and social costs. For children, the benefits of tackling air pollution can go beyond the protection of their health. [Modelling](#) undertaken by Global Action Plan, the Philips Foundation and the University of Manchester suggests reducing air pollution in and around school grounds could improve the development of a child's working memory by 6%, the equivalent of four weeks extra learning time per year.

## Summary

7.192. Officials have concluded that this option has obvious advantages, such as re-emphasising and strengthening the current anti-idling regime. However, officials believe it cannot be a standalone option and needs to be combined with other interventions to enhance the deterrent effect.

## Option 3 – Amend the current penalties regime as well as issue guidance

### Description

- 7.193. Under this option, the policy and legislative framework governing anti-idling would be strengthened by:
- Making provision in the Bill for the Welsh Ministers to introduce by regulations, a monetary range of penalties for idling offences; and
  - Issuing new guidance under section 88(1) of the Environment Act 1995 in relation to anti-idling – the guidance would therefore sit outside of the Bill but would serve to complement and support the provision relating to penalties.
- 7.194. As with option two, the guidance would, amongst other things, point to the benefits of focusing on idling hot spots where concentrated, sustained idling occurs. This would minimise risk to the most vulnerable in society, such as children or those in health care settings. The introduction of a fixed penalties range will increase the deterrent effect and help to reduce emissions, including any unnecessary noise levels. Local authorities would then have the discretionary power to impose fixed penalties for idling offences within this range. The existing power to prescribe a fixed penalty for vehicle idling (under section 87 of and Schedule 11 to the Environment Act 1995) will be retained. The new power for Welsh Ministers to prescribe by regulations a monetary range for fixed penalties will sit alongside this existing power.
- 7.195. We envisage that the guidance will comprise a number of elements. This includes advice:
- to local authorities on awareness-raising and achieving behaviour change;
  - advice on the interconnections between air quality and noise and how improving air quality can bring about benefits for soundscape;
  - advice on developing and implementing anti-idling strategies;
  - advice on administering the new penalties regime alongside signposts to existing resources, such as anti-idling toolkits; and
  - advice on incorporating anti-idling strategies into a wider package of complementary interventions to improve air quality.
- 7.196. The Welsh Government will be looking to conduct stakeholder engagement with local authorities on the guidance during 2024 prior to publishing the guidance in 2025. In this way, we can ensure that the guidance meets the needs of local authorities by helping them to develop anti-idling strategies and advising on how these can be incorporated into a wider package of complementary measures designed to reduce air pollution.

## Costs

- 7.197. This option includes guidance to local authorities and could potentially cover such things as a public awareness and behavioural change campaign to encourage and promote best practice. The cost of creating and publishing guidance for local authorities will fall on Welsh Government and the costs for any best practice and behavioural change campaign will fall on both Welsh Government and local authorities. Drafting of the guidance, consultations with stakeholders and publication of responses and final documents are expected to take 12 months and 30% of the time of one HEO. With on-costs, this equates to £15,800 during 2024/25.
- 7.198. At the higher end the cost of translation for the guidance is likely to be around £630 (on the estimate of the guidance running to 7000 words with the cost of translation being £90 per 1000 words) during 2024/2025.
- 7.199. There may potentially be some revenue costs for local authorities to update their anti-idling strategies, in line with the published guidance. Local authorities could share costs around the publicity and implementation phases to include officer training to ensure consistency of enforcement exercises. Local authorities may deliver campaigns to promote best practice in the community, based on the detail within the guidance.
- 7.200. It is not possible to precisely quantify costs at this point. It is ultimately within the discretion of each local authority to decide what action they take and when.
- 7.201. To inform this assessment we have considered anti-idling framework of action that have been run in other parts of the UK. For the purpose of this document, we are providing estimated potential costs based on an approach taken by Lambeth Council where they enforced anti-idling in 2020. Indicative costs from the Council suggest an anti-idling framework of action could cost around £22k. The development and erection of information signs across Lambeth, particularly around schools and in hot spots, cost £15k while the vests for a 110 Enforcement Officers with anti-idling logos to promote anti-idling enforcement cost £3,740 with further communication activities to promote anti-idling costing £3.5k. To provide indicative cost estimates, based on Lambeth, the costs of enforcing the anti-idling regime could be £110k (5k x £22k), if five local authorities decided to enforce anti-idling. The costs could be £220k (10 x £22k), if 10 local authorities adopted a framework of action. To put these indicative costings into context, it is unlikely every local authority in Wales would adopt the particular framework of action used by Lambeth. Therefore, it is uncertain how resource intensive each local authority's framework of action may be. There is also uncertainty in relation to the number of local authorities which will take action in any given financial year.

Some elements of the costs of a framework of action may potentially be recurring over a number of financial years (e.g. communications and engagement), whereas others may be one-off costs incurred in a single financial year (e.g. signage and equipment).

7.202. There may also be potential costs associated with any enhanced use of FPNs by local authorities, but given the following factors it is not currently possible to meaningfully quantify the scale of any such costs:

- The guidance will place emphasis on educating and informing before resorting to the use of FPNs which will be a last resort.
- It will remain the case that an authorised local authority Enforcement Officer who has reasonable cause to believe that a driver is committing a stationary idling offence on the public highway may require the driver to switch off the engine and that a person failing to comply will be liable on summary conviction to a fine not exceeding level 3 on the standard scale. Therefore, it will continue to be the case that local authority Enforcement Officers are likely to ask idling motorists to switch off their engines.
- In this way, it will remain the case that the practical effect of the current anti-idling regulations will be that drivers can potentially avoid having to pay the penalty if they comply with the request to desist from engine idling. Also, it will remain the case that a person issued with an FPN can apply to an appropriate authority for a reduction or a waiver and obtain either one subject to meeting certain specified conditions.

7.203. As a result, these costs are unknown at this stage. We will seek to examine these potential areas of additional local authority cost in the course of developing and implementing regulations. Potentially, the LAQM Support Fund could be used to provide financial support for those local authorities who decide to implement anti-idling strategies.

7.204. Costs to promote any best practice defined in the guidance may fall on both Welsh Government and local authorities. Financial support for local authorities to cover the costs of implementation (such as educational materials, promotional material and awareness) raising will be available through the LAQM Support Fund (outlined above – up to £1m per annum) and the promoting awareness budget (outlined above – up to £500k per annum). Both the LAQM support Fund and the promoting awareness budget have already been included and so are not included in the table below (to avoid the risk of double-counting). See paragraph 7.100 and Table 7 for details.

7.205. The principal purpose and intent of the guidance on developing and implementing anti-idling measures is to achieve cleaner air and a diminishing need for enforcement. By way of example, the guidance could recommend ways in which local authorities could work with schools to promote anti-idling awareness, education and behaviour change. Similarly, healthcare settings could implement anti-idling toolkits. The resources for such work already exist, such as the following [Toolkit Form Local Authorities \(idlingaction.london\)](https://www.idlingaction.london/). If behaviour change is achieved through education, then the need for enforcement ceases to exist.

7.206. All identified costs would fall within the 2024/2025 financial year.

7.207. We do not consider there to be a substantive impact on the Justice System in relation to option three and the Justice Impact Assessment reflects this.

Table 11 – Summary of costs associated with Vehicle Emissions: Stationary Idling Offence: Option 3 – Amend the current penalties regime as well as issue guidance

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs and translation	-	£16.4k	-	-	-	-	-	-	-	-
Local authority costs to follow guidance	*	*	*	*	*	*	*	*	*	*
<b>Total cost (all transitional)</b>	-	<b>£16.4k</b>	-	-	-	-	-	-	-	-

\*Cannot be quantified. This will depend on the uptake of each local authority but a level of support will be available from the LAQM Support Fund.



## Benefits

7.208. These provisions would complement the Welsh Government's overall policy of reducing emissions from transport. There is some [evidence](#) to suggest that anti-idling measures can be most effective if included in a package of different but complementary measures, all with the purpose of preventing or reducing air pollution. In this context, the guidance would be useful in terms of setting anti-idling strategies alongside a range of other complementary measures which local authorities could adopt to reduce emissions. There can be potential for achieving cumulative reductions in emissions, over time, across a range of different measures applied in tandem. In this way, the application and implementation of anti-idling measures would contribute to better health and the reduction of health and social costs. In Wales, the [societal cost](#) of air pollution from health service costs and lost work days is estimated to be £1 billion each year. Any additional expenditure incurred by local authorities in relation to anti-idling measures will help to reduce emissions, particularly at idling hotspots. There would be potential for the additional expenditure incurred by local authorities to be offset by revenue received from fixed penalties and for local authorities to share costs around the publicity and implementation phases to include officer training and consistency of enforcement exercises. It is worth emphasising, however, that the ultimate aims of these provisions are cleaner air and a healthier environment for all rather than revenue generation.

7.209. There are other inherent advantages to this option. The opportunity to use guidance to emphasise and demonstrate the links between air quality and noise/soundscape would be secured. The sources of air pollution and noise are typically either identical or closely linked, their transmission pathways are similar, and the most affected receptors are often the same people (usually the people who are situated closest to the source).

## Summary

7.210. Option three is the preferred option as the Welsh Government believes a combination of improvements to the penalties regime and the issue of new guidance is likely to be the most effective of the options in delivering change. There is a clear need to minimise the risk to the most vulnerable in society, such as children and those in health care settings and care homes from air pollution. Vulnerable receptors often have pre-existing health conditions which can be exacerbated by emissions. As described above, the intention is for the guidance on developing anti-idling measures to focus in part on education, awareness-raising and behaviour change which would potentially reduce the need for active enforcement.

## **The review and publication of a Noise and Soundscape Plan for Wales**

7.211. This section of the RIA is to support the proposal to add to Welsh Ministers' existing statutory duties under the Environmental Noise (Wales) Regulations 2006 to produce noise action plans, to require the production of a comprehensive, overarching Noise and Soundscape Plan. This would align statutory requirements both with the Welsh Government's established approach to discharging its existing noise action planning duties and with the duty under the Bill to review and publish a Clean Air Plan. This proposal is an extension of Clean Air Plan Option two outlined above.

7.212. Two options are considered:

- **Option one** – Do not add to current legislation on noise action plans; and
- **Option two** – Enhance the legislation on noise action plans to mirror the envisaged Clean Air Plan duty.

### **Option one – Do not change current legislation on noise action plans**

#### **Description**

7.213. The Environmental Noise (Wales) Regulations (2006) transpose the Environmental Noise Directive (2002/49/EC) into Welsh law and require Welsh Ministers to produce noise maps and action plans for major roads, major railways and large urban agglomerations every five years. In 2013 and 2018 Welsh Ministers went further and discharged these obligations by producing a single all-encompassing Noise (or Noise and Soundscape) Action Plan covering the whole of Wales and all major forms of noise. We have subsequently referred to this consolidated plan as the Welsh Government's central noise policy document. We expect to produce a new five-year Noise and Soundscape Plan in 2023 as referenced in this [recent written statement](#).

7.214. The [Noise and Soundscape Action Plan](#) (NSAP) 2018-2023, together with Planning Policy Wales Edition 10, earned the Welsh Government the John Connell Award for soundscape in 2018, with Wales being recognised as being the first nation to embed the concept of soundscape in national policy. The NSAP was recently cited by the United Nations Environment Programme in its Frontiers 2022 [report](#) which also endorsed further integration between noise and air quality policy, to maximise synergies between the two closely linked policy areas. An [external review](#) commissioned by the Welsh Government in 2019 recommended closer integration of action on noise and air quality plans, to maximise synergies and minimise conflicts between action on these two closely correlated issues.

7.215. Under option one, noise legislation would remain as it currently stands, with a duty on Welsh Ministers to produce action plans just for major roads, major railways and large urban agglomerations every five years, with timing linked to an EU reporting cycle that no longer applies to the UK. Future Welsh Governments could choose to continue to discharge this duty by producing a single plan covering the whole of Wales, and all major noise sources, as per current practice, but would not be obliged to do so. The elements of any such overarching plan that fall outside the scope of the 2006 Regulations would continue to have no statutory basis. The statutory requirements for noise action plans in terms of content and timing would continue to differ from those for the Clean Air Plan.

## **Costs**

7.216. This option is considered likely to result in opportunities being missed to eliminate current inefficiencies and reduce administrative costs (due, for example, to having differing scopes and timings of evidence-gathering and consultation exercises) arising from having arbitrarily different statutory review cycles, scopes and requirements for the content of national noise and air quality plans. It would perpetuate silo working, which is an obstacle to joined-up policy-making. Opportunities for taking forward initiatives that have multiple environmental benefits may be missed or go unsupported.

7.217. If a future Welsh Government chooses to do the statutory minimum in terms of noise action planning, then Welsh noise action plans would revert to having a narrower scope, both in terms of geography and the types of noise being considered. This could lead to geographically inequitable policies, and inaction on some forms of noise, with adverse consequences (and costs) to society.

7.218. If an extraordinary Senedd election were to result in subsequent five-year reviews of noise action plans falling too close to subsequent elections, statutory deadlines could be missed and there would be a high risk of plans failing to reflect the priorities of incoming Welsh Governments. As things stand, Ministers would have no readily available powers to reset the five-year review cycle to a more appropriate point in the resultant electoral cycle.

## **Benefits**

7.219. No benefits have been identified arising from not improving the alignment of Welsh Ministers' duties for plans on noise and air quality. It could be argued that changing the existing requirements for noise action plans may result in divergence between Wales and the other UK Governments. However, this divergence has already occurred in practice through the decisions taken in Wales in 2013 and 2018 to produce a single comprehensive strategic Plan for noise and soundscape, rather than the narrowly defined action plans required by current legislation. Stakeholders are now accustomed to Wales having an overarching Noise and Soundscape Plan which has no equivalent elsewhere in the UK.

## **Summary**

7.220. Option one would amount to preservation of the status quo for noise legislation, with no additional expenditure for any sector or organisation. However, it would be a missed opportunity to pursue closer integration and alignment between two related policy areas, and to enshrine in law the Welsh Government's established practice of producing a Noise and Soundscape Plan that applies across the whole of Wales and to all major noise sources, rather than plans covering just those major sources and locations specified in retained EU law.

## **Option two – Change the legislation on noise action plans to mirror the Clean Air Plan duty**

### **Description**

7.221. Under option two, Welsh Ministers' duty to produce certain specific action plans under the Environmental Noise (Wales) Regulations 2006 would be supplemented by a new statutory duty to produce a single Noise and Soundscape Plan for the whole of Wales, covering all major forms of airborne noise and soundscape more generally, as per the voluntary practice already established in 2013 and 2018. Statutory publication deadlines and all other statutory and non-statutory requirements/expectations not linked to the specific subject matter, such as for public consultation and to take account of the National Natural Resources Policy, the State of Natural Resources Report, and matters relating to the WFGA, would aim to mirror those envisaged for the Clean Air Plan. Welsh Ministers may then have the option in practice of producing, if they wish, a single consolidated plan covering air quality, noise and soundscape. The noise action plans currently required under the 2006 Regulations would continue to be delivered as part of the wider strategic Plan.

### **Costs**

7.222. This option places a legal requirement on Welsh Ministers to produce a comprehensive Noise and Soundscape Plan for the whole of Wales and removes the option of reverting back to producing noise action plans solely for major roads, major railways and large urban agglomerations. In terms of costs/cost-savings, we have had no indication that Ministers would consider reverting back to the approach taken prior to 2013. No quantifiable cost savings arising from reverting to a narrower scope have been identified to date, and any such hypothetical savings may be outweighed by the costs of not having a consistent approach with air quality. We estimate the staff resource and administrative costs of producing a comprehensive Noise and Soundscape Plan (option 2) to be essentially the same as those for producing action plans just for major roads, major railways and agglomerations. The resource required to develop and deliver any Ministerial commitments contained in such a Plan, which fall outside the scope of the current 2006 Regulations, would be dependent on the extent of those commitments, but would be the same as if those same commitments were made by Ministers at any other time, outside such a Plan.

7.223. In summary, there are no additional administrative costs expected as a result of pursuing this option.

7.224. As with the Clean Air Plan proposal, there could be costs to public bodies such as local authorities arising from the overarching duty to take account of the Noise and Soundscape Plan when carrying out functions that may affect soundscapes. However, this would only be the case if such public bodies do not take it into account currently (voluntarily or as a result of section 21 of the Environmental Noise (Wales) Regulations 2006) and would not do so in future without an additional duty requiring it. Any such costs in future would depend on the amended content of plans, which would be developed through the statutory public consultation accompanying each review. Any new burden on local authorities would need to be spelt out in the consultation and an assessment of any additional burden made. At this stage, any additional cost to public bodies in Wales is unknown.

Table 12 – Summary of costs associated with the review and publication of a Noise and Soundscape Plan for Wales: Option two – Change the legislation on noise action plans to mirror the Clean Air Plan duty

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
WG Staff Costs	~0	-	-	-	~0	~0	-	-	-	~0

Note: Staff cost best estimates are the same for existing duties as for duties amended by the Bill proposals.

## Benefits

- 7.225. The sources of local air and environmental (transport, industrial and commercial) noise pollution tend to be either identical or else closely linked, their transmission pathways are similar, and the most affected receptors are also often the same, typically the people situated closest to the source.
- 7.226. For road traffic travelling at a fixed speed, emissions of both air and noise pollution increase or decrease in proportion to the number of vehicles. The noisiest and dirtiest vehicles are often the same, as are the quietest and cleanest. The levels of both air and noise pollution are highest at the road itself and fall off with distance. Buildings and terrain can obstruct or channel both air and noise pollution. Traffic travelling at very high speeds and congested traffic can result in high levels of both air and noise pollution. In addition, some adverse health effects have been linked to both air and noise pollution, for example increased risk of cardiovascular disease.
- 7.227. For these reasons, it makes sense to consider both forms of airborne traffic pollution together. Pursuing them separately would at best result in duplication of effort and missed opportunities, at worst in the implementation of conflicting policies.
- 7.228. The Local Air Quality Management (LAQM) 2017 policy guidance for Wales stated that the purpose of air quality management is to improve human health and quality of life, and this improvement to health and quality of life will be greater if improved soundscapes are achieved alongside reductions in air pollution. The 2018 revision of Planning Policy Wales (PPW) brought national planning policy on air quality, noise and soundscape together into a single chapter for the first time. In January 2020 the Welsh Government published an [external review](#) which provided updated advice on the potential synergies and conflicts between noise and air quality management, and included recommendations to align and integrate action planning on noise and air quality. In 2022 the Welsh Government consulted on a new [Technical Advice Note](#) for planning authorities and developers, covering air quality, noise and soundscape together, in line with PPW.
- 7.229. The current five-year statutory review and update cycle for noise maps and action plans is linked to EU reporting requirements that no longer apply to Wales, following EU Exit. It is considered more appropriate now to be able to align it (if necessary in the future) to the Senedd's electoral cycle, to eliminate the risk of five-year plans ever being adopted just as the government making them is coming to the end of its term or before its Programme for Government is in place. The same case is made in relation to the five-year Clean Air Plan. There is precedent for linking policy deliverables to Welsh electoral cycles in the WFGA and Environment (Wales) Act 2016.



7.230. It is unlikely there would be any significant additional expenditure for Welsh Government or any other sector/organisation as a consequence of pursuing this option. However, significant savings could potentially be made by integrating the development and implementation of policies and plans on noise and air quality. At times, administrative costs could be as much as halved, for example, through running joint calls for evidence, consultations, stakeholder engagement or awareness-raising activities to improve both air quality and soundscape quality. Where an intervention is selected on the basis of its combined outcomes for air and soundscape quality, this may be considerably cheaper than funding two separate interventions to address issues separately. The savings are impossible to quantify in absolute terms because the greater level of activity undertaken to improve air quality, the greater the potential for savings if this is done in such a way as to address noise and soundscape issues at the same time.

## **Summary**

7.231. Under this option, similar legislative provisions would apply to the production of the five-year Clean Air Plan and the overarching five-year Noise and Soundscape Plan, leaving Ministers with an option in practice to combine the two. This would be expected to result in more coherent, efficient and effective policy-making and action on the two closely related forms of airborne pollution. Ministers would be able to make regulations, if necessary, under the affirmative procedure, to adjust the five-year review cycles for the Clean Air Plan, the overarching Noise and Soundscape Plan and the strategic noise maps and action plans required by the 2006 Regulations, in order to keep them appropriately aligned with one another and relative to Senedd elections.

## 8. Impact Assessments

8.1. Specific impact assessments were undertaken during development which cover the whole of the Bill. A summary of the impacts are outlined below and the specific impact assessments will be published as appropriate. In addition to the competition filter test, specific assessments were undertaken to understand the effects of the Bill on the following areas:

- Children's Rights;
- Equality;
- Data Protection;
- Welsh Language;
- Biodiversity;
- The Socio-Economic Duty;
- Health;
- Justice System:

### Children's Rights Impact Assessment

8.2. Ministers are required to have due regard to the United Nations Convention on the Rights of the Child when exercising any of their functions. Additionally, the Wellbeing of Future Generations (Wales) Act puts children's needs and their future prosperity at the heart of Welsh Government policy development. A summary of the impacts on children and young people associated with the proposals identified in the Children's Rights impact assessment is summarised below.

8.3. Children and young people, and their representatives have been engaged in the development of the Bill proposals. During the consultation exercise for the Clean Air Plan: Healthy Air, Healthy Wales in 2020, which informed the proposals in the Bill, officials met with the Wrexham Youth Parliament and continue to engage with The Children's Commissioner and The Children's Rights Advisory Group on the proposals.

### Positive Impacts

8.4. The provisions within the Bill will maximise the right to health by reducing air and noise pollution and the associated risks to children's health and educational attainment. Evidence shows children are sensitive receptors to air pollution. This means children and young people can suffer greater ill-effects from breathing in poor quality air than adults as their airways are smaller and still developing. They also breathe more rapidly than adults, meaning they take in more polluted air.

- 8.5. All available evidence indicates that improvements in the air environment lead to better health outcomes for children and young people. This in turn will have a positive impact on the availability of resources to support policies and programmes, through a reduction in expenditure on health interventions associated with poor air and soundscape quality.
- 8.6. Long term health issues can also prevent children from attending school which can damage child's future career prospects. By improving air and soundscape quality, there will be positive consequential effects for health and education of children.

### **Negative Impacts**

- 8.7. No negative impacts to Children's Rights were identified as part of the public consultation, stakeholder engagement or the preparation of this assessment.

### **Equality Impact Assessment**

- 8.8. The Equalities Act 2010 places a General Equality Duty on Welsh public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, as well as to advance equality of opportunity and to foster good relations between people who share a protected characteristic and those who do not.
- 8.9. An Equality Impact Assessment has been completed which indicates there are positive or neutral impacts on people with protected characteristics.
- 8.10. The provisions within the Bill apply to everyone, including protected characteristic groups. The health effects of airborne pollution depend on how much people are exposed to and for how long. Airborne pollution affects people in different ways with risks and impacts changing over a lifetime. Some, such as children and young people, older people and those with heart or lung problems are more likely to be affected. Therefore, there are clear benefits to those with certain protected characteristics such as those with disabilities, pregnant women, people living in areas of high deprivation (which, in turn, could affect ethnic minorities and those with disabilities disproportionately).
- 8.11. Better air and soundscape quality will lead to higher recreational quality of green spaces in and around the cities. People with disabilities and people from lower socioeconomic background who do not own a vehicle or who are unable to access long range public transport to beauty spots will be able to enjoy local recreational spaces with improved air quality environment.

- 8.12. When developing the proposals, potential negative impacts were considered. For example, changes to the monetary range of Fixed Penalty Notices for stationary idling of vehicles could be seen to have a disproportionate impact on low-income groups. It was considered that behaviour change campaigns are the focus of action on vehicle idling. The current approach to enforcement remains unchanged in that it is a last resort, with potential offenders given an opportunity to stop idling before a Fixed Penalty Notice is issued.
- 8.13. The Bill enables further action to tackle a poor air environment, so there is the potential for further impacts to arise through implementation of the Bill. These will be subject to further impact assessment at the appropriate stages of policy development when further details of any implementation are available.

### **Data Protection Impact Assessment**

- 8.14. There are no provisions within the Bill which would require the collection of data. We therefore did not identify any direct impacts on data protection. It was identified that data collection may be required as policy and schemes develop through implementation of the Bill, such as if a Clean Air Zone / Low Emission Zone is established. We submitted an article 36(4) of the UK General Data Protection Regulations enquiry form to the Information Commissioner in relation to the proposals for Clean Air Zones/Low Emission Zones. They confirmed they do not wish to engage any further with the Welsh Government on the proposals at this time. Any impacts will be assessed during the development and implementation phase of such a scheme.

### **Welsh Language Impact Assessment**

- 8.15. Through completion of the Welsh Language Impact Assessment, no direct, clear link with the Cymraeg 2050 strategy or any potential negative effects on the Welsh Language was identified. It is not possible to further quantify the impact of the Bill on the Welsh language as it will contain a collection of provisions requiring further action to implement, all of which may impact on the Welsh language in different ways. Further Welsh language impact assessments will be completed through the implementation process.
- 8.16. Information produced to support implementation of the promoting awareness duty, Local Air Quality Management, smoke control and anti-idling proposals on air quality will be bilingual and in line with the Welsh Language Standards to deliver equality of information for Welsh speakers. This will ensure Welsh-speaking communities have access to high quality information about local air quality conditions as well as air pollution sources, impacts and mitigating actions more broadly.

## **Biodiversity Impact Assessment**

8.17. The primary focus of the Bill is the protection of health and well-being alongside the safeguarding of the environment and biodiversity. It is not anticipated the Bill and the delivery of proposals contained within it will have a negative impact on biodiversity. Many proposals depend on secondary legislation to implement. We are taking an evidence-based approach to delivery to achieve required outcomes, including consideration of addressing impacts, where possible and appropriate, on biodiversity.

8.18. Further impacts will be assessed as we implement proposals in the Bill.

8.19. Air pollution is a major environmental pressure that is felt at a range of scales, from local, to regional, to global. Air pollutants can affect biodiversity and ecosystem services, harm human health and contribute to climate change. Air pollution has caused widespread changes to sensitive ecosystems in Wales. The impact of noise and soundscapes on nature is also considered under the Bill and the potential positive impacts were assessed.

## **Positive Impacts**

8.20. Strengthened powers for Welsh Ministers in relation to setting national air quality targets and a duty to make regulations in relation to PM 2.5 should, when implemented, have a similar effect.

8.21. The Bill proposal for a new air quality promoting awareness duty is a broad duty that can be delivered in a variety of ways. We will work with a range of partners and stakeholders to develop and deliver initiatives, and this could include where appropriate, opportunities to increase understanding of the relationship between air quality and biodiversity.

## **Negative Impacts**

8.22. As the proposals in the Bill are implemented there maybe indirect requirements relating to construction or land management to ensure air quality improvement, but the Bill will not deliver these impacts directly. These actions will be driven by the relevant departments within Welsh Government, and as such, we will seek to influence or inform policy and strategy change. These potential impacts and mitigation of development will be considered individually as those policy areas develop their responses to improving air quality in line with proposals in the Bill.

## **Socio-Economic Duty Assessment**

8.23. During both the initial policy formulation and formal consultation phases for the Bill, active engagement with a range of groups and individuals who represent those who are at socio-economic disadvantage was undertaken. This included:

- Representatives of the Children’s Commissioner in Wales;
- The Senedd Cross-Party Group on the Clean Air Bill;
- The Royal College of General Practitioners;
- The Royal College of Paediatrics and Child Health;
- The Trades Union Congress Cymru;
- Healthy Air Cymru;
- The Institute of Acoustics;
- Local authorities; and
- Academics and members of the public with an interest in air quality and soundscape.

8.24. The Bill aims to maximise our contribution to the sustainable development principle of the Well-being of Future Generations Act 2015 (WFGA) to improve the economic, social, environmental and cultural well-being of Wales. The Bill is firmly grounded in the seven well-being goals in the WFGA. We have also taken account of the Welsh Ministers’ socio-economic duty, duties under the Equality Act 2010 (the 2010 Act) and the United Nations Convention on the Rights of the Child (UNCRC) when developing the Bill’s proposals.

8.25. The Bill includes powers and duties for the setting of air quality targets to drive actions across Wales to reduce national levels of air pollution. However, at this stage it is not possible to predict the eventual impact of introducing the duty to set a target for PM2.5 without knowing the design of the target that will be subsequently set, and the timescale that will be set. These discussions identified a number of impacts both positive and negative on those at a Socio-Economic disadvantage.

### **Positive Impacts**

8.26. Outdoor air pollution is the largest environmental risk to health. Air pollution can affect everyone, and air in all areas of Wales contains some proportion of man-made air pollutants. Air pollution, impaired health and deprivation status interactions can modify associations and create disproportionate disease burdens within and between communities (inequalities). People who live in the most deprived areas – where health and air and soundscape quality tend to be poorest – are also more likely to be harmed by airborne pollution exposure. Proposals relating to setting of national air quality targets and proposals to enhance LAQM, reduce unnecessary vehicle idling and promote the effects of air pollution within the Bill will all contribute to a reduction of impacts on health when implemented.

## Negative impacts

8.27. Many interventions require significant financial investment by individuals, small businesses, industry and government; as well as time to implement. However, based on analysis of potential pathways to achieve a notional Welsh share of UK national emission national emissions reduction targets, the overall public health benefits greatly outweigh the potential implementation costs.

## High-level Health Impact Screening

8.28. The Bill is a key step in meeting our aim to improve air quality and reduce the impacts of air pollution on human health, biodiversity, the natural environment and our economy. The World Health Organisation has described air and airborne noise pollution as the top two environmental health risks in Western Europe. Consequently, the proposals in the Bill aim to facilitate improvements in the quality of our air environment at a Wales-wide level, at a local and regional level and throughout society. It will also contribute to our response to the climate and nature emergencies.

8.29. We have identified the following groups will be impacted by the proposals contained within the Bill:

- **Age related groups**
  - Children and young people
  - Older people
- **Health related groups**
  - People with pre-existing respiratory or cardiovascular conditions
  - Neurodiverse groups and people with hearing impairments
- **Income related groups**
  - People on low income
- **Groups who suffer discrimination or other social disadvantage**
  - People with physical or learning disabilities/difficulties
  - Black and minority ethnic groups

8.30. People living in the most deprived areas may also be more susceptible to air pollution than those who live in least deprived areas. This is a problem because analyses of local air pollution, multiple deprivation and health data in Wales show average air pollution concentrations are highest in 'most' deprived areas where levels of chronic ill health tend to be highest. The next highest average air pollution concentrations in Wales are experienced by those living in 'least' deprived areas. Air pollution, impaired health and deprivation status interactions can modify associations and create disproportionate disease burdens within and between communities (inequalities) i.e., a 'triple jeopardy' effect.

8.31. The Bill includes changes to existing legislation which will streamline, strengthen and complement existing processes to make them more effective and accessible. Consequently, the Bill needs to be seen in a broad context, and not in isolation. It:

- is a crucial part of a package of measures set out in our Clean Air Plan to reduce airborne pollution and improve the air environment in Wales;
- builds on a suite of existing legislation; and
- complements legislation to achieve appropriate soundscapes as set out in the Noise and Soundscape Action Plan 2018-2023.

8.32. During our engagement and consultation with the public and representative groups, for both the Bill and the Clean Air Plan which informed many of the proposals, we have identified no negative impacts on the health of any group by the proposals within the Bill.

8.33. Full health impact assessments will be prepared to accompany the implementation of the Bill's proposals. It is during the implementation process, when the full details of secondary legislation and guidance required to implement the Bill's proposals will be known. This detail will enable us to conduct more comprehensive health impact assessments.

### **Justice Impact Assessment**

8.34. We have considered the impacts of the Bill on the Justice System. Although the Bill does not create any new offences, we assessed the impacts of provisions arising from proposals in the Bill related to smoke control and vehicle idling. The Welsh Government submitted a completed Justice Impact Assessment to the Ministry of Justice, which identified a potential low impact on the justice system following the introduction of the Bill and commencement of these provisions. The Lord Chief Justice's Department has also been advised of the impact the Bill's provisions will have on the Justice system. A summary of the proposals and the findings of our Justice Impact Assessment is set out below.



## **Vehicle Idling**

8.35. In relation to vehicle idling the proposal is to create a power for Welsh Ministers to set a monetary penalty range in relation to vehicle idling offences and to confer on Local Authorities discretion to apply a fixed penalty notice (FPN) within this range. The idling offence remains the same across England and Wales and the approach to enforcement remains the same. A FPN remains a last resort and a person will be asked to stop idling and only issued with a FPN if the request to stop idling is refused.

8.36. Data on the number of FPNs issued for idling offences is not available, but the purpose of FPN provisions is to avoid the need for recourse to the criminal courts. We anticipate the number of cases of penalties being issued to be low and the number of cases ending up in the courts being insignificant.

## **Smoke Control**

8.37. In relation to smoke control, we propose to introduce civil monetary penalties in relation to the emission of smoke in a Smoke Control Area (SCA), as well as, remove the defences to prosecution, including the use of an exempt appliance or an authorised fuel. This will mirror equivalent sanctions that have already been introduced in relation to England under the Environment Act 2021.

8.38. We are unaware of any cases of criminal penalties for the emission of smoke in a SCA having been applied by local authorities in Wales. We are also unaware of any cases of (new) civil monetary penalties having so far been applied in England in relation to the emission of smoke in an SCA (these penalties have been in place since May 2022). We anticipate the number of cases proceeding to tribunals being insignificant.

8.39. The impact of both proposals on the justice system is therefore judged to be low.

## Competition filter assessment

8.40. A Competition Filter Assessment has been undertaken to assess the potential impact associated with the proposals in the Bill. This policy is not expected to have a detrimental effect on levels of competition in Wales or the competitiveness of Welsh firms as the proposals in the Bill do not have any direct effect on businesses or any markets. The results of a filter test (consisting of nine yes/no questions) which support this conclusion are below.

The competition filter test	
Question	Answer yes or no
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No.
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No.
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No.
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	No.
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of firms?	No.
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No.
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No.
<b>Q8:</b> Is the sector characterised by rapid technological change?	No.
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No.

We will continue to consider competition impacts during the implementation process as further detailed proposals around targets and CAZs etc. are developed.

## 9. Post implementation review

- 9.1. The policy objective is for the provisions in the Bill to collectively work towards improving the quality of the air environment in Wales. They complement measures set out in our Clean Air Plan for Wales and our Noise and Soundscape Action Plan.
- 9.2. As we implement the Bill, we will continue to seek opportunities to contribute to our response to the climate and nature emergencies.
- 9.3. The Welsh Government will conduct a post implementation review of the legislation no later than five years after it has come into force. It is envisaged the review will assess the effectiveness of the policy in achieving its objectives of improving the quality of the air environment and reducing the impacts of airborne pollution on human health, nature, the environment and our economy.
- 9.4. Full details of the review are to be determined. However, we intend to evaluate the impact the Bill and measures taken to implement the Bill have had on the air environment in Wales through the following:

### National Targets

- 9.5. For national targets set under the target-setting framework, there are already comprehensive requirements in relation to reporting on, and review of, targets which will require the Welsh Ministers to publish progress on meeting air quality targets set under the Bill. Welsh Ministers are also required by section 6 of the Bill to publish the outcome of the required five-yearly review of the targets. There are a significant number of steps that need to be undertaken before such targets can be set.
- 9.6. The policy intention is to ensure targets are set in a transparent way and with full consultation. The process will be informed by a number of sources of evidence including scientific data and models, historical datasets, and assessment of what is feasible from a socio-economic perspective. It will be an iterative process and rely on input, expertise and scrutiny from others. Experts will be asked to publish their views at appropriate points during this step of the target development process, enabling scrutiny and input from experts, stakeholders, delivery partners, the public and Senedd Cymru. We will provide the Senedd and other relevant stakeholders with an annual progress update against project delivery milestones.
- 9.7. This combined approach will ensure all stakeholders are able to play a role in making sure we have robust targets that drive environmental outcomes.

## **Promoting Awareness**

9.8. Our promoting awareness delivery plan will include a framework for monitoring and evaluation. We will work with stakeholders to develop appropriate methods for collecting baseline evidence to enable evaluation and will report on progress through Clean Air Plan governance mechanisms.

## **National Air Quality Strategy and Soundscapes**

9.9. The Bill requires our Clean Air Plan and our Noise and Soundscape Plan to be reviewed and revised with a full public consultation on draft changes no later than in 2028. As part of that exercise, we will gather evidence on the effectiveness of the existing Plans and seek to improve them where we can. This review and update exercise will then be repeated every five years.

## **LAQM**

9.10. We utilise local authority Annual Progress Reports and Air Quality Action Plans to evaluate the effectiveness of the LAQM legislation. We will work with stakeholders to develop appropriate metrics for evaluation and publish the outcomes.

## **Smoke control**

9.11. For smoke control, we will assess whether the switch from a criminal to a civil sanctions regime, including removal of the defences, has enabled local authorities to better tackle the issue of smoke emissions in SCAs. Any evidence gathered by local authorities could be published in the Annual Progress Reporting under the LAQM framework.

## **Road Charging Schemes – better enabling CAZ and LEZ**

9.12. For road charging schemes for reducing or limiting air pollution, it is intended the schemes themselves will have detailed provisions to monitor the impact they are having upon air quality in the vicinity of the roads where they are established.

9.13. Individual schemes will set clear expectations around the improvements they would be modelled to deliver, along with a suitable monitoring and evaluation plan to observe progress against this which could be reported on through local authorities' Annual Progress Reports.

## **Stationary Vehicle Idling**

9.14. For the vehicle idling offence, Welsh Government will work with local authorities across Wales to decide upon and implement a system for recording the number of Fixed Penalty Notices (FPN) issued for vehicle idling. For example, an annual survey could be instituted in relation to FPN. In addition to the number of FPN issued per local authority per year, there will be a need to capture data relating to the number of Fixed Penalties which have been paid; the number of cases of non-payment taken to court; and the number of non-payment cases awaiting court action. We anticipate the number of Fixed Penalties issued per year will be low.

## **Existing review measures that will operate alongside the Bill**

9.15. Alongside a post-implementation review of the Bill, measures to deliver air quality, as set out in the Clean Air Plan, are regularly monitored and reviewed to ensure progress.

## **Annex 1 - Explanatory Notes**

# **THE ENVIRONMENT (AIR QUALITY AND SOUNDSCAPES) (WALES) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes are for the Environment (Air Quality and Soundscapes) (Wales) Bill which was introduced into Senedd Cymru on 20 March 2023 and amended following Stage 2 proceedings on 11 October 2023. They have been prepared by the Climate Change and Rural Affairs group of the Welsh Government to assist the reader. The Explanatory Notes should be read in conjunction with the Bill but are not part of it. Where a provision of the Bill does not seem to require any explanation or comment, none is given.

### **SUMMARY AND BACKGROUND**

2. The aim of the Bill is to improve the quality of our air environment and reduce the impacts of airborne pollution on human health, nature, the environment and our economy.
3. The Bill has been developed following publication of the consultation paper 'White Paper on a Clean Air (Wales) Bill' in 2021 which contained policy proposals committed to in the Clean Air Plan for Wales: Healthy Air, Healthy Wales, published in 2020. These were in relation to the creation of a target-setting framework and strengthening air quality legislation, including local air quality management, road user charging, anti-idling and smoke control. Following the consultation, we have also included proposals related to noise and soundscapes, requiring Ministers to produce a noise and soundscape plan.
4. The Bill is comprised of 30 sections and two Schedules.

### **COMMENTARY ON SECTIONS**

#### **Part 1 - Air quality**

##### **Chapter 1 - National targets**

5. This Chapter makes provision for a specific framework for setting, reviewing and reporting on national air quality targets for Wales, which will apply in addition to existing legislation in this area. The new targets will provide a specific mechanism to deliver long-term outcomes and place a duty on Welsh Ministers to make regulations to set a target in respect of the annual mean level of PM<sub>2.5</sub> in ambient air in Wales.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

### **Section 1 – Air quality targets: general**

6. Subsection (1) gives the Welsh Ministers a power to make regulations that set long-term targets in respect of any matter relating to air quality in Wales. Any target set under these regulations must, under subsection (2), specify a standard to be achieved and a date by which that standard is to be achieved. Subsection (6) explains that these are referred to as the “specified standard” and “specified date” in Chapter 1 of the Bill (and these references have the same meaning within these Explanatory Notes).
7. A standard might be specified, for example, in relation to a concentration of an air pollutant with harmful effects on public health, ecosystems and biodiversity.
8. The specified standard must be capable of being objectively measured and so the process of setting targets will need to take this into account. Subsection (3) enables the Welsh Ministers to make provision within the regulations about how the matter in respect of which the target is set is to be measured. The method of measurement will need to be clear and repeatable.
9. Subsection (4) provides that a target is a “long-term target” if the specified date for that target is at least 10 years after the date on which the target is set. Subsection (5) explains that a target is set when the regulations setting it come into force.

### **Section 2 – Air quality targets: particulate matter**

10. This section imposes a duty on Welsh Ministers to set at least one target, in regulations, in respect of the annual mean level of PM<sub>2.5</sub> in ambient air in Wales. This is referred to as a “PM<sub>2.5</sub> air quality target” in this section and Chapter 1 of the Bill. Subsection (2) provides that a PM<sub>2.5</sub> air quality target may be a long-term target but it does not have to be.
11. Subsection (3) defines PM<sub>2.5</sub> as particulate matter with an aerodynamic diameter not exceeding 2.5 micrometres. Subsection (4) provides that the Welsh Ministers must ensure that “ambient air” is defined for the purpose of each PM<sub>2.5</sub> target and that regulations may contain different definitions for different targets.
12. Subsection (5) applies subsections (2) to (6) of section 1 to regulations made under this section: see above for an explanation of the effect of these provisions. This means, for example, that regulations setting a PM<sub>2.5</sub> air quality target must specify the standard to be achieved (which must be capable of being objectively measured) and must specify a date by which that standard is to be achieved.

### **Section 3 – Target-setting process**

13. This section sets out the process that the Welsh Ministers must follow before setting, amending or revoking a long-term air quality target under section 1 and before setting or amending a PM<sub>2.5</sub> air quality target under section 2. A PM<sub>2.5</sub> air quality target cannot be revoked by regulations made under section 2 (see subsection (6)).

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

14. Pursuant to subsection (1), before making regulations under sections 1 or 2 Welsh Ministers must: (a) seek advice from persons they consider to be independent and have relevant expertise; and (b) have regard to scientific knowledge on air pollution. This could include, for example, international evidence on the health and environmental effects of air pollution and the economic, technical and social analyses, and the feasibility of meeting targets.
15. Subsection (2) further requires the Welsh Ministers to have regard to the most recent air quality guidelines published by the World Health Organization in relation to a pollutant before making regulations which set or amend a target in relation to that pollutant.
16. Subsection (3) requires the Welsh Ministers to set targets they are satisfied can be met. This applies to a target or targets set under the first exercise of the powers under sections 1 and 2 and to any amended targets that are set using those powers.
17. Subsections (4) to (7) set out the process that must be followed in order to revoke or lower a target that has been set under section 1 or 2. Subsection (6) explains that a target is lowered if it replaces the specified standard with a lower standard or replaces the specified date with a later date.
18. Pursuant to subsection (4), the Welsh Ministers can only revoke or lower an existing target if they are satisfied that (a) meeting the existing target would have no significant benefit compared with not meeting it or meeting a lower target; or (b) because of changes in circumstances since the existing target was set or last amended the environmental, social, economic, or other costs of meeting it would be disproportionate to the benefits.
19. Meeting a target may have no significant benefit. For example, if meeting it was anticipated to generate a health benefit, and new scientific evidence has now demonstrated that the same health benefit is achievable through meeting a revised or entirely new target. Alternatively, the new scientific evidence may demonstrate that the anticipated health benefit is no longer expected.
20. A change in circumstances may, for example, occur as a result of unforeseen reductions in international emission reduction ambitions, assumed when the targets were set, affecting pollutant levels in Wales. This may significantly reduce the ability of actions taken in Wales to achieve a target, or disproportionately increase the associated costs.
21. Subsection (5) requires that before lowering or revoking a target, the Welsh Ministers must publish and lay before Senedd Cymru a statement that explains why they are satisfied that at least one of the grounds in subsection (4) has been met.



*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

#### **Section 4 - Effect of targets**

22. Subsection (1) places the Welsh Ministers under a duty to ensure long term targets set under section 1 and the PM<sub>2.5</sub> air quality targets set under section 2 are met.
23. Subsection (2) clarifies that nothing in Chapter 1 of the Bill, except section 8, limits the Welsh Ministers' power under section 87 of the Environment Act 1995 to make regulations for the assessment or management of air quality.

#### **Section 5 - Reporting on targets**

24. Section 5 sets out the reporting duties that are placed on Welsh Ministers in relation to long-term targets set under section 1 and PM<sub>2.5</sub> air quality targets set under section 2.
25. Subsection (1) provides that regulations under sections 1 and 2 must set a reporting date for any target that is set under those regulations. On or before the reporting date for each target, the Welsh Ministers must lay one of three statements before Senedd Cymru (and publish that statement):
  - a) A statement, under section 5(3)(a), that the target has been met.
  - b) A statement, under section 5(3)(b), that the target has not been met. Within 12 months of laying this statement, the Welsh Ministers must, under subsections (4) and (5), lay a report before Senedd Cymru explaining why the target was not met and what steps they have taken, or intend to take to make sure that the specified standard under that target is achieved as soon as reasonably practicable. The Welsh Ministers must also publish this report.
  - c) A statement, under section 5(3)(c), that the Welsh Ministers cannot determine whether the target has been met. This statement must also explain why the Welsh Ministers have not been able to make this determination and the steps they intend to take in order to be able to do so. Within 6 months of laying this statement, the Welsh Ministers must, under subsection (6), lay a further statement before Senedd Cymru confirming whether or not a target has been met or that they cannot determine whether it has been met. Subsections (3) to (6) apply to any further statement in the same way as they apply to a statement made under subsection (2). The Welsh Ministers must also publish the further statement.

#### **Section 6 - Review of targets**

26. Subsection (1) places a duty on the Welsh Ministers to review targets set under sections 1 and 2.
27. Under subsection (2), when undertaking a review, the Welsh Ministers must seek advice from persons they consider to be independent and to have relevant expertise. They must also have regard to scientific knowledge about air pollution. This could include, for example, international evidence on the health and environmental effects of air pollution and the economic, technical and social analyses, and the feasibility of meeting targets.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

28. Subsection (3) further requires the Welsh Ministers to have regard to the most recent air quality guidelines published by the World Health Organization in relation to a pollutant when reviewing a target for that pollutant.
29. Subsection (4) requires the Welsh Ministers, once they have carried out the review, to publish and lay before Senedd Cymru a statement about the steps, if any, they intend to take under section 1 or section 2 in relation to each target as a result of the review.
30. Subsection (5) provides that where the Welsh Ministers determine that no steps will be taken in relation to a target, the statement must include the reasons for that decision.
31. Subsections (6) and (7) set out when the targets set under sections 1 and 2 must be reviewed. The first review must be completed within 5 years beginning with the day on which the first target is set. Subsequent reviews must be completed within 5 years of the day on which the previous review was completed.
32. Subsection (8) clarifies that a review is completed when the Welsh Ministers have laid the statement referred to in subsection (4) before Senedd Cymru and published it.

### **Section 7 - Monitoring progress towards meeting targets**

33. Subsection (1) requires the Welsh Ministers to make arrangements for obtaining such data about air quality in Wales as they consider appropriate for the purpose of monitoring progress being made towards meeting any of the targets set under section 1 or 2.
34. Subsection (2) requires the Welsh Ministers to publish any data that is obtained under subsection (1).

### **Section 8 - Maintaining air quality standards**

35. Section 8 establishes a duty for the Welsh Ministers to maintain air quality standards after targets set under section 1 or 2 have been achieved.
36. In accordance with subsection (1), section 8 applies where the specified date for a target set under section 1 or 2 has been reached and the specified standard for that target has been achieved.
37. Section 87(1) of the Environment Act 1995 (referred to as "the 1995 Act" in these Explanatory Notes) gives the Welsh Ministers powers to make regulations with respect to the assessment or management of the quality of air. Subsection (2) of section 8 provides that the Welsh Ministers must exercise their powers under section 87(1) of the 1995 Act to ensure that the Welsh Ministers are under a duty to maintain the specified standard and to establish reporting requirements in relation to the performance of that duty.
38. Pursuant to subsection (3), the Welsh Ministers may revoke or lower a standard only if they are satisfied that (a) meeting the standard would have no significant benefit compared with not meeting it or meeting a lower standard; or (b) because of changes in circumstances since the standard was set or last lowered the environmental, social, economic, or other costs of meeting it would be disproportionate to the benefits.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

39. Subsection (4) requires that before making regulations lowering or revoking a standard, the Welsh Ministers (in addition to complying with the consultation requirements in section 87(7B) of the 1995 Act) must (a) seek advice from persons they consider to be independent and to have relevant expertise, (b) have regard to scientific knowledge, (c) have regard to the most recent air quality guidelines published by the World Health Organisation in relation to the pollutant to which the standard applies and (d) publish and lay before Senedd Cymru a statement that explains why they are satisfied that at least one of the grounds in subsection (3) has been met.

### **Section 9 – Reporting in relation to section 1**

40. Section 9 requires the Welsh Ministers, as soon as practicable after the end of each reporting period, to publish and lay before the Senedd a report on the consideration they have given during that reporting period to setting long-term targets under section 1.
41. Subsection (4) explains that the reporting periods are the period of two years beginning with the day on which section 1 comes into force and each subsequent period of 12 months.
42. Subsection (2) lists the pollutants that the report must, in particular, address. These are (a) ammonia, (b) PM10 (as defined in subsection (4)), (c) ground level ozone, (d) nitrogen dioxide, (e) carbon monoxide and (f) sulphur dioxide.
43. Subsections (3) provides that the report does not have to address a pollutant if regulations have been made under section 1 in relation to that pollutant.

## **Chapter 2 – Other provision**

### **Promoting awareness**

#### **Section 10 - Promoting awareness about air pollution**

44. This section places a duty on the Welsh Ministers to take steps to promote awareness in Wales of the risks of air pollution to human health and the natural environment as well as ways to reduce or limit air pollution.
45. Examples of ways in which the Welsh Ministers might discharge their duty might include: by encouraging, supporting and promoting local initiatives about air pollution; or by improving the provision of air pollution resources for health professionals and reviewing current information on the sources of air pollution and the health and environmental impacts, taking into account accessibility and requirements of different groups.

### **National air quality strategy**

46. Section 80 of the Environment Act 1995<sup>2</sup> requires the publication of a national air quality strategy.

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<sup>2</sup> Functions of the Secretary of State under Part IV of the Environment Act 1995 were transferred in relation to Wales to the National Assembly for Wales by virtue of article 2 of and Schedule 1 to the National Assembly for

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

47. Section 80(4A) of the Environment Act 1995 sets out when the national air quality strategy must be reviewed and, if appropriate, modified.
48. It provides that the strategy must, in effect, be reviewed by 1 May 2023 and, subsequently, within each period of 5 years beginning with the day on which the most recent review was completed.

### **Section 11 - Power to change review period for strategy**

49. Subsection (1) inserts new subsection (8) into section 80 of the 1995 Act. It gives the Welsh Ministers a new regulation making power to amend the review period for the national air quality strategy set out in section 80(4A) of that Act.
50. Subsection (2) amends section 87 of the 1995 Act (regulations for the purpose of Part 4) so that any regulations made under the new power in section 80(8) of the 1995 Act are subject to the affirmative resolution procedure of Senedd Cymru.

### **Section 12 - Consultation on review of strategy**

51. This section amends section 80 of the 1995 Act by disapplying the consultation and publication requirements in respect of the national air quality strategy in subsections (6) and (7) in relation to Wales and replacing them with new requirements in new subsection (10).
52. New subsection (10) provides that when reviewing the national air quality strategy, the Welsh Ministers must consult with the Natural Resources Body for Wales, every local authority in Wales, every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006, every National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006, every public services board (within the meaning of Part 4 of the Well-being of Future Generations (Wales) Act 2015, the Future Generations Commissioner for Wales and the public.

### **Section 13 - Duty to have regard to strategy**

53. Subsection (1) inserts new section 81B into the 1995 Act.
54. Subsection (1) of section 81B requires Welsh local authorities and relevant Welsh public authorities to have regard to the policies published by the Welsh Ministers in the national air quality strategy under section 80 of the 1995 Act when exercising any function of a public nature that could affect the quality of air in Wales.
55. Under subsections (2) and (3) of section 81B, a person is a “relevant Welsh public authority” if they have been designated as such by regulations made by the Welsh Ministers.

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Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). These functions were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

56. However, the Welsh Ministers may only designate a person as a “relevant Welsh public authority” if they meet the definition of “devolved Welsh authority” in section 157A(1)(a) of the Government of Wales Act 2006. This means a person can only be designated if they are a public authority (i) whose functions are exercisable only in relation to Wales, and (ii) are wholly or mainly functions that do not relate to reserved matters. Public authority is defined in section 157(A)(8) of the Government of Wales Act 2006 as “a body, office or holder of an office that has functions of a public nature”.
57. Subsection (4) of section 81B provides that before making regulations under subsection (3) of section 81B, the Welsh Ministers must consult the person who is proposed to be designated as a “relevant Welsh public authority” and such other persons as the Welsh Ministers consider appropriate.
58. Section 11(2) amends section 87(2) of the Environment Act (regulations for the purposes of Part 4) to add references to “relevant Welsh public authority” where appropriate in that subsection.
59. Section 11(3) amends section 88 of the 1995 Act (guidance for the purposes of Part 4). It inserts new subsections (4) and (5) into section 88. New subsection (4) provides the Welsh Ministers with the power to issue guidance to relevant Welsh public authorities in relation to the discharge of any duties placed on them by virtue of section 81B of the 1995 Act or regulations made by the Welsh Ministers under Part 4 of that Act. New subsection (5) places a duty on relevant Welsh public authorities to have regard to guidance published by Welsh Ministers under new subsection (4) when exercising any powers or discharging any duties to which the guidance relates.
60. Subsection (4) amends section 91 of the 1995 Act (interpretation of Part 4) to add a reference to relevant Welsh public authority, stating it has the meaning set out in section 81B(2).

## **Air quality regulations**

### **Section 14 - Consultation on air quality regulations**

61. Section 87 of the 1995 Act contains general provisions that apply to regulations that are made for the purposes of Part 4 of that Act.
62. Section 12 of this Bill inserts new subsections (7A) and (7B) into section 87 of the 1995 Act. These have the effect of disapplying the consultation requirements in subsection (7) in relation to Wales and replacing them with new requirements.
63. These requirements provide that before making regulations under Part 4 of the 1995 Act, the Welsh Ministers must consult: the Natural Resources Body for Wales; every local authority in Wales; the Public Health Wales National Health Service Trust; every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 and the public.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

## **Local air quality management**

64. Under Part 4 of the 1995 Act, local authorities in Wales are responsible for managing air quality at local level, through the Local Air Quality Management process (LAQM). The LAQM process requires local authorities to periodically review and assess air quality in their area, and to designate air quality management areas and produce action plans for those areas where air quality is found to be at risk of exceeding pollutant standards and objectives.
65. Currently, in accordance with section 82 of the 1995 Act, every local authority in Wales must from time to time conduct a review of the quality, and the likely future quality within the relevant period, of air within the authority's area. Where a local authority carries out such a review, it must also make an assessment of whether air quality standards and objectives are being achieved or are likely to be achieved within the relevant period within the authority's area. The 1995 Act does not currently specify the intervals at which such reviews should be conducted.
66. Following an air quality review, if it appears that any air quality standards or objectives are not being achieved or are not likely to be achieved within the period prescribed in regulations, the local authority must designate any part of its area in which those standards are not being achieved, as an air quality management area or "designated area". Section 84 of the 1995 Act requires the local authority to produce an "action plan" for each designated area in accordance with which the authority must exercise its powers in order to achieve the relevant air quality standards and objectives for the designated area.
67. There is concern that the current LAQM regime has not been effective enough at delivering improvements in air quality. For example, air quality management areas can exist for some years with limited improvements to air quality. The intention, through sections 13 to 15 of this Bill, is to amend and strengthen the existing relevant legislation to ensure the LAQM regime is more effective at enabling improvements in local air quality.

## **Section 15 - Local authority air quality reviews**

68. Section 13 inserts a new subsection (1A) into section 82 of the 1995 Act. The effect of this new subsection is to require every local authority in Wales to conduct an air quality review every calendar year, rather than from time to time.

## **Section 16 - Action plans in relation to air quality management areas**

69. Section 14 inserts a new section 83B into the 1995 Act. This section applies in relation to local authorities in Wales, and in part re-enacts section 84 of the 1995 Act (duties of Scottish and Welsh local authorities in relation to designated areas) which is disapplied in relation to Welsh local authorities by section 14(2) of the Bill.
70. New section 83B(2) requires a local authority to prepare an action plan in relation to a designated area and send a copy to the Welsh Ministers for approval. Section 83B(8) provides that the plan does not take effect unless it is approved by the Welsh Ministers.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

71. Section 83B(3) requires an action plan to set out how the local authority will exercise its functions to secure that air quality standards and objectives are achieved in the area covered by the plan, and to specify, in relation to each standard and objective, a date by which the local authority will aim to achieve that standard or objective.
72. Section 83B(4) provides that an action plan must also set out how the local authority intends to exercise its functions to secure that air quality standards and objectives are maintained once they have been achieved in the area to which the plan relates. Section 83B(5) provides that an action plan must specify the particular measures to be taken to secure the achievement, and maintenance, of air quality standards and objectives in the area covered by the plan, and specify a date by which each measure will be carried out.
73. Section 83B(6) provides that a local authority may prepare revisions to an action plan at any time. However, the authority must revise an action plan if it considers that further or different measures need to be taken in order to achieve the air quality standards and objectives identified in the plan by the date set under section 83B(3)(b) and in order to maintain those standards and objectives in the area covered by the plan.
74. If an action plan is revised, section 83B(7) provides that the local authority must send copies of the revisions to the Welsh Ministers for approval. Under section 83B(8), the revision to the plan does not take effect unless it is approved by the Welsh Ministers.

### **Section 17 - Welsh Ministers' powers of direction**

75. Section 15 amends section 85 of the 1995 Act. Section 85(3) currently provides that if the Welsh Ministers are satisfied with respect to any of the matters in section 85(3)(a) to (d), they may give a direction to a local authority to take the steps contained in the direction.
76. Section 15 inserts new paragraphs (e) and (f) into section 85(3). New section 85(3)(e) means that if a local authority in Wales has failed to carry out a measure specified in an action plan by the date specified in the plan in relation to that measure, the Welsh Ministers can direct the local authority to take specified steps. New section 85(3)(f) means that if an air quality standard or objective has not been achieved, within a designated area in Wales, by the date specified in the action plan as the date by which the standard or objective is expected to be achieved, the Welsh Ministers can, again, direct the relevant local authority to take specified steps.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

## **Smoke control**

### **Section 18 – Regulation of smoke and fuel in smoke control areas**

77. Section 16 inserts new sections 19E – 19H into Part 3 of the Clean Air Act 1993<sup>3</sup> (referred to as “the 1993 Act” in these Explanatory Notes). Part 3 of the 1993 Act makes provision for the control and prevention of air pollution by smoke and other related emissions.
78. Section 18 of the 1993 Act enables a local authority to make a smoke control order declaring the whole or any part of its area a smoke control area. Under section 19 of the 1993 Act, the Welsh Ministers can, in certain circumstances, direct a local authority in Wales to exercise its powers to create a smoke control area.
79. New section 19E of the 1993 Act applies Schedule 1A to the 1993 Act to Wales so that the unauthorised emission of smoke in a smoke control area attracts a civil penalty. Part 1 of Schedule 1 to the Bill makes further amendments to Schedule 1A to the 1993 Act for this purpose. The criminal offences in section 20 of the 1993 Act are repealed in relation to Wales (see paragraph 10 of Schedule 1 to the Bill).
80. New section 19F(1)(a)-(c) of the 1993 Act makes it an offence to acquire any solid fuel for use in a building, fireplace, fixed boiler or industrial plant to which a smoke control order in Wales applies. These offences do not apply to authorised fuels. Under new section 19G(3), the Welsh Ministers may keep a list of authorised fuels and where they do so, they must publish it.
81. The offence in section 19F(1)(b) does not apply if, at the time the solid fuel is acquired, the fireplace in question is on the list of exempt fireplaces kept by the Welsh Ministers under new section 19G.
82. New section 19F(1)(d) of the 1993 Act makes it an offence to sell unauthorised fuel for delivery to a building to which a smoke control order in Wales applies or to premises with a fixed boiler or industrial plant to which a smoke control order in Wales applies. No offence is committed if the person selling the fuel can establish one of the defences in section 19F(5).
83. Under new section 19H(1)(b) of the 1993 Act, the Welsh Ministers can suspend or relax the operation of the offences in section 19F(1)(a)-(d) in relation to the whole or part of a particular smoke control area in Wales. They can only do so if it appears necessary or expedient to do so and they have first consulted the local authority that declared the smoke control area in question (unless consultation is impracticable due to urgency).

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<sup>3</sup> Functions of the Secretary of State under Part 3 of the Clean Air Act 1993 were transferred in relation to Wales to the National Assembly for Wales by virtue of article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). These functions were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.



*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

84. New section 19G of the 1993 Act enables the Welsh Ministers to keep a list of exempt fireplaces and authorised fuels for the purposes of section 19F. Where they keep such lists, the Welsh Ministers must publish them.  
If a fireplace is included on the list, the offence in section 19F(1)(b) will not apply to the use of unauthorised solid fuel in that fireplace. However, the Welsh Ministers can only include a fireplace on the list if they are satisfied that the fireplace can be used for burning unauthorised solid fuel without producing any smoke or a substantial quantity of smoke.
85. If solid fuel is included on the list of authorised fuels kept by the Welsh Ministers then offences in section 19F(1) will not apply to the sale or acquisition of that fuel.
86. Under section 19H(1)(a), the Welsh Ministers can also suspend or relax the operation of Schedule 1A to the 1993 Act in relation to the whole or part of a smoke control area in Wales. They can only do so if it appears necessary or expedient to do so and they must first consult the local authority that declared the smoke control area in question (unless consultation is impracticable due to urgency).

## **Section 19 – Guidance for local authorities in relation to smoke control areas**

87. This section amends the 1993 Act to insert a new section 28B which requires local authorities in Wales to have regard to any guidance published by the Welsh Ministers about the exercise of the local authority’s functions under Part 3 of the 1993 Act.

## **Section 20 - Further provision relating to smoke control**

88. This section introduces Schedule 1 to the Bill, which makes further provision in relation to smoke control.

### **Schedule 1**

#### **Part 1**

89. This part makes various amendments to Schedule 1A to the 1993 Act to allow for the civil sanctions regime contained in that Schedule to apply in relation to Wales.

#### **Part 2**

90. This part omits provisions in Schedule 2 to the 1993 Act that require local authorities, in certain circumstances, to reimburse owners or occupiers of old private dwellings for expenditure incurred to avoid a contravention of section 20 of that Act.

#### **Part 3**

91. This Part makes other amendments to the 1993 Act in consequence of the provision made by Part 1 of this Schedule, and by sections 16 and 17 of this Bill.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

## **Vehicle emissions**

### **Section 21 – Trunk road charging schemes**

92. By virtue of section 167 of the Transport Act 2000 <sup>4</sup>(c 38) (referred to as “the 2000 Act” in these Explanatory Notes), the Welsh Ministers currently have power to make charging schemes in relation to trunk roads in Wales. However, the power to do so is currently restricted by section 167(2) to circumstances where the road on which it is proposed to institute the charging scheme, is carried by a bridge, or passes through a tunnel, of at least 600 metres in length, or where the creation of a combined charging scheme is requested by certain other traffic authorities. Section 21 of the Bill extends the Welsh Ministers’ power to make a trunk road charging scheme in Wales to enable the making of schemes for the purpose of reducing or limiting air pollution in the vicinity of that road.
93. Section 21(2)(a) amends section 167(2) of the 2000 Act so that it applies only to a charging scheme made by the Secretary of State, and no longer applies to a charging scheme made by the Welsh Ministers.
94. Section 21(2)(b) inserts new subsections (3) and (4) into section 167 of the 2000 Act. These subsections apply to trunk road charging schemes made by the Welsh Ministers.
95. Subsection (3) sets out the circumstances in which the Welsh Ministers may make a trunk road charging scheme. The circumstances set out in subsection (3)(a) and (c) are similar to the circumstances in which the Welsh Ministers were already able to make such charging schemes. However, subsection (3)(b) adds a new set of circumstances in which the Welsh Ministers may make a trunk road charging scheme: the Welsh Ministers may now make a scheme if the purpose of the scheme is to reduce or limit air pollution in the vicinity of that road. The new subsection (4) provides that subsection (3)(b) does not prevent a scheme being made under subsection (3)(c) for the purpose of reducing or limiting air pollution.

### **Section 22 – Further provision relating to trunk road charging schemes**

96. This section introduces Schedule 2 to the Bill, which makes provision for and in connection with the application of the net proceeds of trunk road charging schemes made for the purposes of reducing or limiting air pollution.

## **Schedule 2**

97. Schedule 12 to the 2000 Act includes financial provision about trunk road charging schemes.
98. Paragraphs 2 and 3 of Schedule 2 to the Bill make consequential amendments to Schedule 12 to the 2000 Act in relation to the changes made to section 167 of that Act by section 21 of the Bill.

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<sup>4</sup> Functions conferred on the National Assembly for Wales under the Transport Act 2000 were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2000.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

99. Paragraph 13 of Schedule 12 to the 2000 Act makes provision about the proceeds of trunk road charging schemes made under section 167(2) of the 2000 Act. Paragraphs 4, 5 and 6 of Schedule 2 to the Bill amend paragraph 13 of Schedule 12 and insert new paragraphs 14 and 15 into Schedule 12 in respect of trunk road charging schemes made by the Welsh Ministers under section 167(3) of the 2000 Act. These amendments and new provisions mean that:
- a) If the Secretary of State makes a trunk road charging scheme under section 167(2) of the 2000 Act, paragraph 13 of Schedule 12 to that Act applies to that scheme.
  - b) If the Welsh Ministers make a trunk road charging scheme under section 167(3) of the 2000 Act either wholly or partially for the purpose of reducing or limiting air pollution, new paragraph 14 of Schedule 12 to the 2000 Act applies to that scheme. This means that, as soon as reasonably practicable after the scheme is made, the Welsh Ministers must publish a statement confirming the matters listed in new paragraph 14(2) of Schedule 12 to the 2000 Act. This statement must also be laid before the Senedd Cymru as soon as reasonably practicable after the scheme is made.
  - c) If the Welsh Ministers make a trunk road charging scheme under section 167(3) of the 2000 Act that is not wholly or partially for the purpose of reducing or limiting air pollution, new paragraph 15 of Schedule 12 to the 2000 Act applies to that scheme. This provision has the same effect as paragraph 13 of Schedule 12 to the 2000 Act in relation to such schemes.
100. Paragraph 7 of Schedule 2 to the Bill amends section 197 of the 2000 Act in order to specify the Senedd procedures that apply to regulations made under new paragraph 15 of Schedule 12 to the 2000 Act. It does so by setting out, in full, the procedural requirements that apply to regulations made by the Welsh Ministers under Part 3 of that Act.

### **Section 23 – Stationary idling offence: fixed penalty**

101. Section 87 of the 1995 Act enables the Welsh Ministers to make various provisions in regulations for the purposes of Part 4 of that Act. This includes provision enabling a person to discharge liability to conviction for an offence by paying a penalty of an amount prescribed in the regulations (a “fixed penalty”).
102. Section 23(2)(a) of the Bill amends and inserts new provision into section 87(2)(o) of the 1995 Act so that, in the case of a stationary idling offence prescribed by the Welsh Ministers, regulations under section 87 of the 1995 Act can, instead, prescribe a monetary range within which the amount of the penalty may be set.
103. A “stationary idling offence” is defined in new section 87(2B) of the 1995 Act, which is inserted by section 23(2)(b) of the Bill.
104. Section 23(3) amends Schedule 11 (air quality: supplemental provision) to the 1995 Act, to include in the definition of fixed penalty, an amount falling within a prescribed monetary range. It also amends the definition of “fixed penalty notice” in that Schedule to reflect this change.

## **Part 2 – Soundscapes**

### **National strategy on soundscapes**

105. Prior to the passage of this Bill, there was no duty on Welsh Ministers to publish a national strategy on soundscapes. However, the Environmental Noise (Wales) Regulations 2006 provide that Welsh Ministers must make and adopt strategic noise maps and must draw up noise action plans, and prescribes what they must contain. The provisions in this Bill place a duty on Welsh Ministers to prepare and publish a national strategy on soundscapes which can incorporate the strategic noise maps and noise actions plans required under regulations 7 and 17 of the Environmental Noise (Wales) Regulations 2006.

### **Section 24 - National strategy on soundscapes**

106. Subsection (1) places a duty on Welsh Ministers to prepare and publish a national strategy containing their policies in relation to the assessment, management and design of soundscapes in Wales.
107. Subsection (2) requires the strategy to include policies for assessing and effectively managing noise pollution. In accordance with subsection (3), the Welsh Ministers are required to keep these policies under review. In accordance with subsection (4), the Welsh Ministers may modify the strategy.
108. Subsection (5) requires the Welsh Ministers to review and, if appropriate, modify the strategy within 5 years of the date on which the strategy is first published and, subsequently, within each period of 5 years beginning with the day on which the last review was completed.
109. Subsection (6) provides that the Welsh Ministers, when reviewing or preparing the strategy, must have regard to scientific knowledge relevant to soundscapes and the most recent strategic noise maps adopted under regulation 23 of the Environmental Noise (Wales) Regulations 2006. Subsection (6) also provides that in preparing or reviewing the strategy, the Welsh Ministers must consult with the Natural Resources Body for Wales, every local authority in Wales, every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006, every National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006, every public services board established under Part 4 of the Well-being of Future Generations (Wales) Act 2015, the Future Generations Commissioner for Wales and the public.
110. Subsection (7) gives the Welsh Ministers the power to amend the review periods referred to in subsection (5).
111. Subsection (8) provides that an existing strategy that fulfils the requirements of subsections (1) and (2) at the time section 24 comes into force can be treated as the strategy prepared and published under subsection (1). In these circumstances, the requirements of subsection (6) do not apply in relation to the preparation of the strategy.

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

112. Subsection (9) defines local authority for the purposes of this section and section 25 as a county council or county borough council.

### **Section 25 – Duty to have regard to national strategy on soundscapes**

113. Subsection (1) requires local authorities and relevant Welsh public authorities to have regard to the policies in the national strategy on soundscapes published under section 24 when exercising any function of a public nature that could affect soundscapes in Wales.
114. Under subsections (2) and (3), a person is a “relevant Welsh public authority” if they have been designated as such by regulations made by the Welsh Ministers.
115. However, the Welsh Ministers may only designate a person as a “relevant Welsh public authority” if they meet the definition of “devolved Welsh Authority” in section 157A(1)(a) of the Government of Wales Act 2006. This means a person can only be designated if they are a public authority (i) whose functions are exercisable only in relation to Wales, and (ii) are wholly or mainly functions that do not relate to reserved matters. Public authority is defined in section 157(A)(8) of the Government of Wales Act 2006 as “a body, office or holder of an office that has functions of a public nature”.
116. Subsection (4) provides that before making regulations under subsection (3), the Welsh Ministers must consult the person who is proposed to be designated as a “relevant Welsh public authority” and such other persons as the Welsh Ministers consider appropriate.

### **Section 26 – Power to change cycles for making strategic noise maps and reviewing noise action plans**

117. This section enables the Welsh Ministers, by regulations, to change the intervals at which strategic noise maps must be made and adopted under regulation 7(2) of the Environmental Noise (Wales) Regulations 2006 and to change the period within which reviews of noise action plans under regulation 17(3)(b) of those Regulations must take place.

## **Part 3 - General**

### **Section 27 – Power to make consequential, transitional etc. provision**

118. This section provides that the Welsh Ministers may, by regulations, make such supplementary, incidental, consequential, transitional or saving provision as they think necessary or appropriate for the purpose of giving full effect to any provision made by or under this Bill, including in relation to the provisions contained in this Bill.

### **Section 28 – Regulations**

119. This section explains how powers to make regulations under this Bill are to be exercised and sets out the applicable procedure to be followed in making those regulations.

### **Section 29 – Coming into Force**

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Bill which was amended following Stage 2 proceedings on 11 October 2023.*

120. This section sets out how the provisions of this Bill come into force. The provisions within Part 3 of the Bill come into force on the day after the Bill receives Royal Assent. Sections 1-6, 8-14, 21-26 and Schedule 2, come into force at the end of the period of 2 months beginning with the day on which the Bill receives Royal Assent. The other provisions of the Bill come into force on a day appointed by the Welsh Ministers.

## Annex 2 - Index of Standing Order requirements

Table 13

Standing order		Section	pages/ paragraphs
26.6(i)	Statement the provisions of the Bill would be within the legislative competence of the Senedd.	Member's declaration	Page 1
26.6(ii)	Set out the policy objectives of the Bill.	Chapter 3 - Purpose and intended effect of the legislation	Page 6 - 64
26.6(iii)	Set out whether alternative ways of achieving the policy objectives were considered and, if so, why the approach taken in the Bill was adopted.	Part 2 – Regulatory Impact Assessment	Pages 85 - 168
26.6(iv)	Set out the consultation, if any, which was undertaken on: (a) the policy objectives of the Bill and the ways of meeting them;  (b) the detail of the Bill, and  (c) a draft Bill, either in full or in part (and if in part, which parts).	Chapter 4 – Consultation	Pages 65 - 72
26.6(v)	Set out a summary of the outcome of that consultation, including how and why any draft Bill has been amended.	Chapter 4 – Consultation	Pages 65 - 72

<b>Standing order</b>		<b>Section</b>	<b>pages/ paragraphs</b>
26.6(vi)	If the bill, or part of the Bill, was not previously published as a draft, state the reasons for that decision.	Chapter 4 – Consultation	Page 72
26.6(vii)	Summarise objectively what each of the provisions of the Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Bill.	Annex 1 – Explanatory Notes	Pages 181 - 197
26.6(viii)	Set out the best estimates of: <ul style="list-style-type: none"> <li>(a) the gross administrative, compliance and other costs to which the provisions of the Bill would give rise;</li> <li>(b) the administrative savings arising from the Bill;</li> <li>(c) net administrative costs of the Bill’s provisions;</li> <li>(d) the timescales over which such costs and savings would be expected to arise; and</li> <li>(e) on whom the costs would fall.</li> </ul>	Part 2 – Regulatory Impact Assessment	Pages 85 - 168



Standing order		Section	pages/ paragraphs
26.6(ix)	Any environmental and social benefits and dis-benefits arising from the Bill that cannot be quantified financially.	Part 2 – Regulatory Impact Assessment	Pages 87 Pages 100-101 Page 106 Page 111 Page 116 Page 126 Page 136 Pages 148 - 149 Page 160 Page 167 - 168
26.6(x)	<p>Where the Bill contains any provision conferring power to make subordinate legislation, set out, in relation to each such provision:</p> <p>(a) the person upon whom, or the body upon which, the power is conferred and the form in which the power is to be exercised;</p> <p>(b) why it is considered appropriate to delegate the power; and</p> <p>(c) the Senedd procedure (if any) to which the subordinate legislation made or to be made in the exercise of the power is to be subject, and why it was considered appropriate to make it subject to that procedure (and not to make it subject to any other procedure).</p>	Chapter 5 - Power to make subordinate legislation	Page 73 - 84

<b>Standing order</b>		<b>Section</b>	<b>pages/ paragraphs</b>
26.6(xi)	Where the Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate.	The requirement of Standing Order 26.6(xi) does not apply to this Bill.	-
26.6(xii)	Set out the potential impact (if any) on the justice system in England and Wales of the provisions of the Bill (a “justice impact assessment”), in accordance with section 110A of the Act.	Part 2 – Regulatory Impact Assessment	Pages 175 - 176
26.6B	Where provisions of the Bill are derived from existing primary legislation, whether for the purposes of amendment or consolidation, the Explanatory Memorandum must be accompanied by a table of derivations that explain clearly how the Bill relates to the existing legal framework.	Annex 3 –Table of Derivations	Pages 202 - 203
26.6C	Where the Bill proposes to significantly amend existing primary legislation, the Explanatory Memorandum must be accompanied by a schedule setting out the wording of existing legislation amended by the Bill, and setting out clearly how that wording is amended by the Bill.	Annex 4 – Schedule of Amendments	Page 204 - 268

## Annex 3 - Table of Derivations

The table below is intended to provide information on the derivation of the provisions of the Environment (Air Quality and Soundscapes) (Wales) Bill. The table does not provide definitive or exhaustive guidance and should be read in conjunction with the Bill and with the explanatory notes to the Bill. While care has been taken to ensure that the document is as accurate as reasonably practicable, it does not purport to be, and should not be relied on as, authoritative.

<b>SECTION/ PARAGRAPH</b>	<b>CORRESPONDING REFERENCE IN EXISTING LEGISLATION</b>	<b>SUBSTANTIVE CHANGE</b>
Sections 1-17	New	
Section 18	Sections 21, 22 and 23 Clean Air Act 1993	The newly inserted sections 19F, 19G and 19H correspond to Sections 23, 21 and 22 of the Clean Air Act respectively. The drafting has been modernised and adjustment made to take account of the fact the new provisions apply to Wales only and that the provisions relating to exempt fireplaces and authorised fuel do not apply to the civil regime in Schedule 1A.
Sections 19 and 20	New	
Section 21	Section 167 Transport Act 2000	Expands the circumstances in which Trunk Road Charging Schemes can be made in Wales.
Section 22	Schedule 12 and section 197 Transport Act 2000	Amends Schedule 12 to reference the amendments made by section 21 of the Bill.
Section 23	New, except s.23(2)(b) which derives from Regulation 2 of the	No changes made but ensures consistency of definition.

	Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003	
Sections 24-30	New	
Schedule 2 para. 6	Inserts paragraph 15 into Schedule 12 to the Transport Act 2000. This paragraph derives from paragraph 13 of that Schedule.	Provides for the same regulatory powers to be applicable to a scheme made under subsection (3) of section 167 of the 2000 Act which is not made (either wholly or partly) for the purpose of reducing or limiting air pollution as was previously the case.

## Annex 4 - Schedule of amendments

### Environment Act 1995

#### AMENDMENTS TO BE MADE BY THE ENVIRONMENT (AIR QUALITY AND SOUNDSCAPES) (WALES) BILL

This document is intended to show how the provisions of the Environment Act 1995 as they applied in relation to Wales on 6 December 2022 would look as amended by the Environment (Air Quality and Soundscapes) (Wales) Bill (if enacted as amended at stage 2 on 11 October 2023).

Material to be deleted by the Environment (Air Quality and Soundscapes) (Wales) Bill is in strikethrough, e.g. ~~omitted material looks like this~~. Material to be added by the Environment (Air Quality and Soundscapes) (Wales) Bill is underlined, e.g. added material looks like this. References to the relevant amending provisions of the Bill are provided in the right-hand column on each page.

A number of related provisions from the Act, although not being amended, are included to aid understanding of the proposed amendments.

#### **Warning**

This text has been prepared by officials of the Climate Change and Rural Affairs Group of the Welsh Government. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the Act or the Bill.

It has been produced solely to help people understand the effect of the Environment (Air Quality and Soundscapes) (Wales) Bill. It is not intended for use in any other context.

Please note: this document has been prepared solely to assist people in understanding the Environment (Air Quality and Soundscapes) (Wales) Bill. It should not be relied on for any other purpose.

## Environment Act 1995

Amending  
section of the  
Environment  
(Air Quality  
and  
Soundscapes)  
(Wales) Bill

### 80 National air quality strategy

(1) The Secretary of State shall as soon as possible prepare and publish a statement (in this Part referred to as “*the strategy*”) containing policies with respect to the assessment or management of the quality of air.

(2) The strategy may also contain policies for [...] — [

(a) securing that any retained EU obligation is met, or

]

(b) [the implementation of ] international agreements to which the United Kingdom is for the time being a party,

so far as relating to the quality of air.

[...]

(4) The Secretary of State—

(a) shall keep under review his policies with respect to the quality of air; and

(b) may from time to time modify the strategy.

[

(4A) The strategy must be reviewed, and if appropriate modified—

(a) within the period of 12 months beginning with the day on which this subsection comes into force, and

(b) within each period of 5 years beginning with the day on which the person carrying out the review completed their most recent review under this subsection.

]

(5) Without prejudice to the generality of what may be

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included in the strategy, the strategy must include statements with respect to—

- (a) standards relating to the quality of air;
- (b) objectives for the restriction of the levels at which particular substances are present in the air; and
- (c) measures which are to be taken by local authorities and other persons for the purpose of achieving those objectives.

(6) In preparing the strategy or any modification of it, the Secretary of State shall consult—

- (a) the [appropriate agency] ;
- (b) such bodies or persons appearing to him to be representative of the interests of local government as he may consider appropriate;
- (c) such bodies or persons appearing to him to be representative of the interests of industry as he may consider appropriate; and
- (d) such other bodies or persons as he may consider appropriate.

(7) Before publishing the strategy or any modification of it, the Secretary of State—

- (a) shall publish a draft of the proposed strategy or modification, together with notice of a date before which, and an address at which, representations may be made to him concerning the draft so published; and
- (b) shall take into account any such representations which are duly made and not withdrawn.

[

- (8) The Welsh Ministers may by regulations amend this section for the purpose of changing the period within which they must review the strategy. S11(1)
- (9) Subsections (6) and (7) do not apply in relation to the Welsh Ministers. S12

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(10) In reviewing the strategy, the Welsh Ministers must consult—

- (a) the Natural Resources Body for Wales;
- (b) every local authority in Wales;
- (c) every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;
- (d) every National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006;
- (e) every public services board (within the meaning of Part 4 of the Well-being of Future Generations (Wales) Act 2015);
- (f) the Future Generations Commissioner for Wales;  
and
- (g) the public.

1

**81.— Functions of the new Agencies.**

(1) In discharging its pollution control functions, each new Agency [ and the Natural Resources Body for Wales] shall have regard to the strategy.

(2) In this section “*pollution control functions*” [...] [...]—

(a) [means ] in the case of the Agency [ or the Natural Resources Body for Wales] , the functions conferred on it by or under the enactments specified in section 5(5) above [ (subject, in the case of the Body, to section 5(6) above)]<sup>6</sup> ; or

(b) in the case of SEPA, [has the same meaning as in section 108(15) below in relation to SEPA] .

**[81B Functions of relevant Welsh public authorities etc.]**

S13(1)

(1) The following persons must have regard to the policies published by the Welsh Ministers in the strategy when exercising any function of a public nature that could affect the quality of air in Wales—

- (a) local authorities in Wales;



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(b) relevant Welsh public authorities.

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

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

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

(a) the person that is proposed to be designated,  
and

(b) such other persons as the Welsh Ministers consider appropriate.

## **82 Local authority reviews**

(1) Every local authority[, other than a local authority in Wales,] shall from time to time cause a review to be conducted of the quality for the time being, and the likely future quality within the relevant period, of air within the authority's area. S15(2)

[(1A) Every local authority in Wales must, in each calendar year, cause a review to be conducted of the quality for the time being, and the likely future quality within the relevant period, of air within the authority's area.] S15(3)

(2) Where a local authority causes a review under subsection (1) [or (1A)] above to be conducted, it shall also cause an assessment to be made of whether air quality standards and objectives are being achieved, or are likely to be achieved within the relevant period, within the authority's area. S15(4)

(3) [This subsection applies to a local authority where]<sup>1</sup> , on an assessment under subsection (2) above, it appears that any air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the local authority's area [...]<sup>2</sup> .

(4) Where subsection (3) applies to a local authority, it must identify any parts of its area in which it appears that air quality standards or objectives are not likely to be achieved within the relevant period.

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(5) Where subsection (3) applies to a local authority in England, it must also—

(a) identify relevant sources of emissions that it considers are, or will be, responsible (in whole or in part) for any failure to achieve air quality standards or objectives in its area,

(b) in the case of a relevant source within the area of a neighbouring authority, identify that authority, and

(c) in the case of a relevant source within an area in relation to which a relevant public authority or the Agency has functions of a public nature, identify that person in relation to that source.

(6) For the purposes of subsection (5), a source is “relevant” if—

(a) it is within the area of the local authority,

(b) it is within the area of a neighbouring authority in England, or

(c) it is within an area in relation to which a relevant public authority or the Agency has functions of a public nature and the local authority considers that the exercise of those functions is relevant to the source of the emissions.

### **83A Duties of English local authorities in relation to designated areas**

(1) This section applies in relation to a local authority in England.

(2) A local authority must, for the purpose of securing that air quality standards and objectives are achieved in an air quality management area designated by that authority, prepare an action plan in relation to that area.

(3) An action plan is a written plan that sets out how the local authority will exercise its functions in order to secure that air quality standards and objectives are achieved in the area to which the plan relates.

(4) An action plan must also set out how the local authority will exercise its functions to secure that air

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quality standards and objectives are maintained after they have been achieved in the area to which the plan relates.

(5) An action plan must set out particular measures the local authority will take to secure the achievement, and maintenance, of air quality standards and objectives in the area to which the plan relates, and must in relation to each measure specify a date by which it will be carried out.

(6) A local authority may revise an action plan at any time, and must revise an action plan if it considers that there is a need for further or different measures to be taken to secure that air quality standards and objectives are achieved or maintained in the area to which the plan relates.

(7) Subsections (8) to (10) apply where a district council in an area for which there is a county council is preparing an action plan, or a revision of an action plan.

(8) Where the county council disagrees with the contents of the proposed plan, or the proposed revision of a plan, a referral of the matter may be made to the Secretary of State by—

- (a) the county council;
- (b) the district council preparing the plan or revision.

(9) The Secretary of State may, on a reference made under subsection (8), confirm (with or without modifications) or reject the proposed action plan, or revision of an action plan.

(10) Where a reference has been made under subsection (8), the district council may not finally determine the proposed action plan or revision of an action plan, except in accordance with the decision of the Secretary of State on the reference or in pursuance of a direction made by the Secretary of State under section 85.

### **[83B Duties of Welsh local authorities in relation to designated areas**

S16(1)

(1) This section applies in relation to a local authority in Wales.

(2) A local authority must, for the purpose of securing that air quality standards and objectives are achieved in

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an air quality management area designated by the authority—

(a) prepare an action plan in relation to that area, and

(b) send a copy of the action plan to the Welsh Ministers for approval.

(3) An action plan is a written plan that—

(a) sets out how the local authority will exercise its functions to secure that air quality standards and objectives are achieved in the area to which the plan relates, and

(b) in relation to each standard and objective, specifies a date by which the local authority will aim to achieve the standard or objective.

(4) An action plan must also set out how the local authority will exercise its functions to secure that air quality standards and objectives are maintained after they have been achieved in the area to which the plan relates.

(5) An action plan must—

(a) set out particular measures the local authority will take to secure the achievement and maintenance of air quality standards and objectives in the area to which the plan relates, and

(b) in relation to each measure, specify a date by which it will be carried out.

(6) A local authority—

(a) may prepare revisions to an action plan at any time, and

(b) must prepare revisions to an action plan if it considers that there is a need for further or different measures to be taken to secure that air quality standards and objectives are achieved by the dates specified under subsection (3)(b), and are maintained, in the area to which the plan relates.

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

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

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**84 Duties of ~~[Scottish and Welsh]~~ local authorities in relation to designated areas** S16(2)(b)

(1) . . .

[(1A) This section applies in relation to a local authority in Scotland ~~[or Wales].~~]

S16(2)(a)

(2) [Where an order under section 83 above comes into operation, the local authority which made the order shall prepare, in accordance with the following provisions of this Part, a written plan (in this Part referred to as an “action plan”) for the exercise by the authority, in pursuit of the achievement of air quality standards and objectives in the designated area, of any powers exercisable by the authority.]<sup>4</sup>[...]<sup>4</sup>

(3) An action plan shall include a statement of the time or times by or within which the local authority in question proposes to implement each of the proposed measures comprised in the plan.

(4) A local authority may from time to time revise an action plan.

[...]

**85 Reserve powers of the Secretary of State or SEPA**

(1) In this section, “*the appropriate authority*” means —

(a) in relation to [local authorities in England and Wales other than local authorities in Greater London, the Secretary of State;] and

[

(aa) in relation to local authorities in Greater London, the Mayor of London; and

]

(b) in relation to Scotland, SEPA acting with the approval of the Secretary of State.

(2) The appropriate authority may conduct or make, or cause to be conducted or made,—

(a) a review of the quality for the time being, and the likely future quality within the relevant period, of air

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within the area of any local authority;

(b) an assessment of whether air quality standards and objectives are being achieved, or are likely to be achieved within the relevant period, within the area of a local authority;

(c) an identification of any parts of the area of a local authority in which it appears that those standards or objectives are not likely to be achieved within the relevant period; or

(d) an assessment of the respects (if any) in which it appears that air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the area of a local authority or within a designated area.

(3) If it appears to the appropriate authority—

(a) that air quality standards or objectives are not being achieved, or are not likely within the relevant period to be achieved, within the area of a local authority,

(b) that a local authority has failed to discharge any duty imposed on it under or by virtue of this Part,

(c) that the actions, or proposed actions, of a local authority in purported compliance with the provisions of this Part are inappropriate in all the circumstances of the case, ~~{or}~~

S17(a)

(d) that developments in science or technology, or material changes in circumstances, have rendered inappropriate the actions or proposed actions of a local authority in pursuance of this Part,

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

S17(b)

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

the appropriate authority may give directions to the local authority requiring it to take such steps as may be specified in the directions.

(4) Without prejudice to the generality of subsection (3)

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above, directions under that subsection may, in particular, require a local authority—

(a) to cause an air quality review to be conducted under section 82 above in accordance with the directions;

(b) to cause an air quality review under section 82 above to be conducted afresh, whether in whole or in part, or to be so conducted with such differences as may be specified or described in the directions;

(c) to make an order under section 83 above designating as an air quality management area an area specified in, or determined in accordance with, the directions;

(d) to revoke, or modify in accordance with the directions, any order under that section;

(e) to prepare in accordance with the directions an action plan for a designated area;

(f) to modify, in accordance with the directions, any action plan prepared by the authority; or

(g) to implement, in accordance with the directions, any measures in an action plan.

[

(4A) The powers of the Mayor of London to give directions under this section to a local authority in Greater London may only be exercised after consultation with the local authority concerned.

(4B) In exercising any function under subsection (2), (3) or (4) above [or (5A) below ]<sup>4</sup> the Mayor of London shall have regard to any guidance issued by the Secretary of State to local authorities under section 88(1) below.

]

(5) The Secretary of State shall also have power to give directions to local authorities [other than local authorities in Greater London, ]<sup>5</sup> requiring them to take such steps specified in the directions as he considers appropriate [...]<sup>6</sup> — [

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(a) for securing that any retained EU obligation is met,  
or

]

(b) [for the implementation of ]<sup>8</sup>any international agreement to which the United Kingdom is for the time being a party,

so far as relating to the quality of air.

[

(5A) The Mayor of London shall also have the same power to give directions to local authorities in Greater London as the Secretary of State has under subsection (5) above in relation to other local authorities.

]

(6) Any direction given under this section shall be published in such manner as the body or person giving it considers appropriate for the purpose of bringing the matters to which it relates to the attention of persons likely to be affected by them; and—

(a) copies of the direction shall be made available to the public; and

(b) notice shall be given—

(i) in the case of a direction given to a local authority in England and Wales, in the London Gazette, or

(ii) in the case of a direction given to a local authority in Scotland, in the Edinburgh Gazette,

of the giving of the direction and of where a copy of the direction may be obtained.

[

(6A) The Mayor of London shall send a copy of any direction he gives under this section to the Secretary of State.

]



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(7) It is the duty of a local authority to comply with any direction given to it under or by virtue of this Part.

## 87 Regulations for the purposes of Part IV

(1) Regulations may make provision—

(a) for, or in connection with, implementing the strategy;

(b) for, or in connection with, [...] — [

(i) securing that any retained EU obligation is met, or

]

(ii) [the implementation of any ]<sup>3</sup>international agreements to which the United Kingdom is for the time being a party,

so far as relating to the quality of air; or

(c) otherwise with respect to the assessment or management of the quality of air.

(2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may make provision—

(a) prescribing standards relating to the quality of air;

(b) prescribing objectives for the restriction of the levels at which particular substances are present in the air;

(c) conferring powers or imposing duties on local authorities [, relevant county councils, relevant public authorities, relevant Welsh public authorities or the Agency];

S13(2)(a)

(d) for or in connection with—

(i) authorising local authorities (whether by agreements or otherwise) to exercise any functions of a Minister of the Crown on his behalf;

(ii) directing that functions of a Minister of the Crown shall be exercisable concurrently with local authorities; or

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- (iii) transferring functions of a Minister of the Crown to local authorities;
- (e) prohibiting or restricting, or for or in connection with prohibiting or restricting,—
  - (i) the carrying on of prescribed activities, or
  - (ii) the access of prescribed vehicles or mobile equipment to prescribed areas,whether generally or in prescribed circumstances;
- (f) for or in connection with the designation of air quality management areas by orders made by local authorities in such cases or circumstances not falling within section 83 above as may be prescribed;
- (g) for the application, with or without modifications, of any provisions of this Part in relation to areas designated by virtue of paragraph (f) above or in relation to orders made by virtue of that paragraph;
- (h) with respect to—
  - (i) air quality reviews;
  - (ii) assessments under this Part;
  - (iii) orders designating air quality management areas; or
  - (iv) action plans;
- (j) prescribing measures which are to be adopted by local authorities (whether in action plans or otherwise)[, relevant county councils, relevant public authorities, relevant Welsh public authorities,] the Agency] or other persons in pursuance of the achievement of air quality standards or objectives; S13(2)(b)
- (k) for or in connection with the communication to the public of information relating to quality for the time being, or likely future quality, of the air;
- (l) for or in connection with the obtaining by local authorities[, relevant county councils, relevant public authorities [, relevant Welsh public authorities] or the Agency] from any person of information which is reasonably necessary for the discharge of functions conferred or imposed on them under or by virtue of this Part; S13(2)(c)
- (m) for or in connection with the recovery by a local authority[, a relevant county council, a relevant public authority[, a relevant Welsh public authority] or the Agency] from prescribed persons in prescribed S13(2)(d)

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circumstances, and in such manner as may be prescribed, of costs incurred by the authority[, council or Agency] in discharging functions conferred or imposed on the authority[, council or Agency] under or by virtue of this Part;

(n) for a person who contravenes, or fails to comply with, any prescribed provision of the regulations to be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or such lower level on that scale as may be prescribed in relation to the offence;

(o) for or in connection with arrangements under which a person may discharge any liability to conviction for a prescribed offence

[(i) by payment of a penalty of a prescribed amount; or S23(2)(a)(i)

(ii) by payment of a penalty of an amount that falls within a prescribed range, where the prescribed offence is a stationary idling offence prescribed by the Welsh Ministers and such a range is prescribed;] S23(2)(a)(ii)

(2A) In subsection (2) "*relevant county council*" means a county council for an area in England for which there are district councils.

[(2B) In subsection (2)(o)(ii) "stationary idling offence" means an offence under section 42 of the Road Traffic Act 1988 that consists of a contravention of, or failure to comply with, so much of regulation 98 of the Road Vehicle (Construction and Use) Regulations 1986 (stopping of engine when stationary) as relates to the prevention of exhaust emissions.] S23(2)(b)

(3) Without prejudice to the generality of paragraph (h) of subsection (2) above, the provision that may be made by virtue of that paragraph includes provision for or in connection with any of the following, that is to say—

- (a) the scope or form of a review or assessment;
- (b) the scope, content or form of an action plan;
- (c) the time at which, period within which, or manner in which a review or assessment is to be carried out or an action plan is to be prepared;
- (d) the methods to be employed—

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- (i) in carrying out reviews or assessments; or
- (ii) in monitoring the effectiveness of action plans;

(e) the factors to be taken into account in preparing action plans;

(f) the actions which must be taken by local authorities or other persons in consequence of reviews, assessments or action plans;

(g) requirements for consultation;

(h) the treatment of representations or objections duly made;

(j) the publication of, or the making available to the public of, or of copies of,—

- (i) the results, or reports of the results, of reviews or assessments; or

- (ii) orders or action plans;

(k) requirements for—

- (i) copies of any such reports, orders or action plans, or

- (ii) prescribed information, in such form as may be prescribed, relating to reviews or assessments,

to be sent to the Secretary of State or to the [appropriate agency].

(4) In determining—

- (a) any appeal against, or reference or review of, a decision of a local authority under or by virtue of regulations under this Part, or

- (b) any application transmitted from a local authority under or by virtue of any such regulations,

the body or person making the determination shall be bound by any direction given by a Minister of the Crown

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or SEPA to the local authority to the same extent as the local authority.

(5) The provisions of any regulations under this Part may include—

(a) provision for anything that may be prescribed by the regulations to be determined under the regulations and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed;

(b) different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities; and

(c) such supplemental, consequential, incidental or transitional provision (including provision amending any enactment or any instrument made under any enactment) as the Secretary of State considers appropriate.

(6) Nothing in regulations under this Part shall authorise any person other than a constable in uniform to stop a vehicle on any road.

(7) Before making any regulations under this Part, the Secretary of State shall consult—

(a) the [appropriate agency]<sup>10</sup> ;

(b) such bodies or persons appearing to him to be representative of the interests of local government as he may consider appropriate;

(c) such bodies or persons appearing to him to be representative of the interests of industry as he may consider appropriate; and

(d) such other bodies or persons as he may consider appropriate.

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

S14

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

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(a) the Natural Resources Body for Wales;

(b) every local authority in Wales;

(c) the Public Health Wales National Health Service

Trust;

(d) every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006; and

(e) the public.]

(8) Any power conferred by this Part to make regulations shall be exercisable by statutory instrument; and no statutory instrument containing regulations under this Part shall be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(9) If, apart from this subsection, the draft of an instrument containing regulations under this Part would be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.

[(9A) A statutory instrument containing regulations under section 80(8) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru.]

S11(2)

(10) In subsection (5)(c) above, “*enactment*” includes an enactment comprised in an Act of the Scottish Parliament.

## **88 Guidance for the purposes of Part IV**

(1) The Secretary of State may issue guidance to local authorities with respect to, or in connection with, the exercise of any of the powers conferred, or the discharge of any of the duties imposed, on those authorities by or under this Part.

(2) A local authority, in carrying out any of its functions under or by virtue of this Part, shall have regard to any guidance issued by the Secretary of State under this Part.

(3) ~~[This section~~ Subsections (1) and (2)] shall apply in relation to county councils for areas for which there are district councils[, relevant public authorities and the Agency] as ~~[it applies~~ they apply] in relation to local authorities.

S13(3)(a)(i)

S13(3)(a)(ii)

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

S13(3)(b)

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

## 91 Interpretation of Part IV

(1) In this Part—

["action plan" is to be construed—

(a) in relation to England, in accordance with section 83A;

[(aa) in relation to Wales, in accordance with section 83B;]

S16(3)

(b) otherwise, in accordance with section 84(2);]

*"air quality objectives"* means objectives prescribed by virtue of section 87(2)(b) above;

[

*"air quality partner"* has the meaning given by section 85A(1);

]

*"air quality review"* means a review under section 82 or 85 above;

*"air quality standards"* means standards prescribed by virtue of section 87(2)(a) above;

[

*"the appropriate agency"* means—

(a) in relation to England, the Agency;

(b) in relation to Wales, the Natural Resources Body for Wales;

(c) in relation to Scotland, SEPA;

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]

“*designated area*” has the meaning given by section 83(1) above;

“*local authority*” , in relation to England and Wales, means

—

- (a) any unitary authority,
- (b) any district council, so far as it is not a unitary authority,
- (c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively,

and, in relation to Scotland, means a council for an area constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

[

“*neighbouring authority*” , in relation to a local authority (“the principal authority”), means another local authority whose area is contiguous with the area of the principal authority;

]

“*new Agency*” means the Agency or SEPA;

“*prescribed*” means prescribed, or of a description prescribed, by or under regulations;

“*regulations*” means regulations made by the Secretary of State;

“*the relevant period*” , in the case of any provision of this Part, means such period as may be prescribed for the purposes of that provision;

[“relevant public authority” has the meaning given by section 81A(2);]

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

S 13(4)



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## **SCHEDULE 11 AIR QUALITY: SUPPLEMENTAL PROVISIONS**

### ***Fixed penalty offences***

#### **5**

(1) Without prejudice to the generality of paragraph (o) of subsection (2) of section 87 of this Act, regulations may, in particular, make provision—

(a) for the qualifications, appointment or authorisation of persons who are to issue fixed penalty notices;

(b) for the offences in connection with which, the cases or circumstances in which, the time or period at or within which, or the manner in which fixed penalty notices may be issued;

(c) prohibiting the institution, before the expiration of the period for paying the fixed penalty, of proceedings against a person for an offence in connection with which a fixed penalty notice has been issued;

(d) prohibiting the conviction of a person for an offence in connection with which a fixed penalty notice has been issued if the fixed penalty is paid before the expiration of the period for paying it;

(e) entitling, in prescribed cases, a person to whom a fixed penalty notice is issued to give, within a prescribed period, notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;

(f) for the amount of the fixed penalty to be increased by a prescribed amount in any case where the person liable to pay the fixed penalty fails to pay it before the expiration of the period for paying it, without having given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates;

(g) for or in connection with the recovery of an unpaid fixed penalty as a fine or as a civil debt or as if it were a sum payable under a county court order;

(h) for or in connection with execution or other enforcement in respect of an unpaid fixed penalty by prescribed persons;

(j) for a fixed penalty notice, and any prescribed proceedings or other prescribed steps taken by reference to the notice, to be rendered void in

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prescribed cases where a person makes a prescribed statutory declaration, and for the consequences of any notice, proceedings or other steps being so rendered void (including extension of any time limit for instituting criminal proceedings);

(k) for or in connection with the extension, in prescribed cases or circumstances, by a prescribed person of the period for paying a fixed penalty;

(l) for or in connection with the withdrawal, in prescribed circumstances, of a fixed penalty notice, including—

(i) repayment of any amount paid by way of fixed penalty in pursuance of a fixed penalty notice which is withdrawn; and

(ii) prohibition of the institution or continuation of proceedings for the offence in connection with which the withdrawn notice was issued;

(m) for or in connection with the disposition of sums received by way of fixed penalty;

(n) for a certificate purporting to be signed by or on behalf of a prescribed person and stating either—

(i) that payment of a fixed penalty was, or (as the case may be) was not, received on or before a date specified in the certificate, or

(ii) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,

to be received as evidence of the matters so stated and to be treated, without further proof, as being so signed unless the contrary is shown;

(o) requiring a fixed penalty notice to give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and to state—

(i) the monetary amount of the fixed penalty which may be paid;

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(ii) the person to whom, and the address at which, the fixed penalty may be paid and any correspondence relating to the fixed penalty notice may be sent;

(iii) the method or methods by which payment of the fixed penalty may be made;

(iv) the period for paying the fixed penalty;

(v) the consequences of the fixed penalty not being paid before the expiration of that period;

(p) similar to any provision made by section 79 of the Road Traffic Offenders Act 1988 (statements by constables in fixed penalty cases);

(q) for presuming, in any proceedings, that any document of a prescribed description purporting to have been signed by a person to whom a fixed penalty notice has been issued has been signed by that person;

(r) requiring or authorising a fixed penalty notice to contain prescribed information relating to, or for the purpose of facilitating, the administration of the fixed penalty system;

(s) with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—

(i) the methods by which,

(ii) the officers, servants or agents by, to or on whom, and

(iii) the places at which,

fixed penalty notices may be given by, or served on behalf of, a prescribed person;

(t) prescribing the method or methods by which fixed penalties may be paid;

(u) for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given;

(w) for a fixed penalty notice to be treated for prescribed purposes as if it were an information or

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summons or any other document of a prescribed description.

(2) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—

(a) only if it is committed in such circumstances or manner as may be prescribed; or

(b) except if it is committed in such circumstances or manner as may be prescribed.

(3) Regulations may provide for any offence which is a fixed penalty offence to cease to be such an offence.

(4) An offence which, in consequence of regulations made by virtue of sub-paragraph (3) above, has ceased to be a fixed penalty offence shall be eligible to be prescribed as such an offence again.

(5) Regulations may make provision for such exceptions, limitations and conditions as the Secretary of State considers necessary or expedient.

(6) In this paragraph—

“fixed penalty” means

[ (a) a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations), or S23(3)(a)(i)

(b) a penalty of such amount falling within a range prescribed in regulations as is specified in a fixed penalty notice;] S23(3)(a)(ii)

“fixed penalty notice” means a notice offering a person an opportunity to discharge any liability to conviction for a fixed penalty offence by payment of a penalty of a prescribed amount [or an amount falling within a range prescribed in regulations] ; S23(3)(b)

“fixed penalty offence” means , subject to sub-paragraph (2) above, any offence (whether under or by virtue of this Part or any other enactment) which is for the time being prescribed as a fixed penalty offence;

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*“the fixed penalty system”* means the system implementing regulations made under or by virtue of paragraph (o) of subsection (2) of section 87 of this Act;

*“the period for paying”*, in relation to any fixed penalty, means such period as may be prescribed for the purpose;

*“regulations”* means regulations under or by virtue of paragraph (o) of subsection (2) of section 87 of this Act

## Clean Air Act 1993

### AMENDMENTS TO BE MADE BY THE ENVIRONMENT (AIR QUALITY AND SOUNDSCAPES) (WALES) BILL

This document is intended to show how the provisions of the Clean Air Act 1993 as they applied in relation to Wales on 6 December 2022 would look as amended by the Environment (Air Quality and Soundscapes) (Wales) Bill (if enacted as amended at stage 2 on 11 October 2023).

Material to be deleted by the Environment (Air Quality and Soundscapes) (Wales) Bill is in strikethrough, e.g. ~~omitted material looks like this~~. Material to be added by the Environment (Air Quality and Soundscapes) (Wales) Bill is underlined, e.g. added material looks like this. References to the relevant amending provisions of the Bill are provided in the right-hand column on each page.

A number of related provisions from the Act, although not being amended, are included to aid understanding of the proposed amendments.

#### **Warning**

This text has been prepared by officials of the Climate Change and Rural Affairs Group of the Welsh Government. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the Act or the Bill.

It has been produced solely to help people understand the effect of the Environment (Air Quality and Soundscapes) (Wales) Bill. It is not intended for use in any other context.

Please note: this document has been prepared solely to assist people in understanding the Environment (Air Quality and Soundscapes) (Wales) Bill. It should not be relied on for any other purpose.

## Clean Air Act 1993

Amending  
section of the  
Environment  
(Air Quality  
and  
Soundscapes)  
(Wales) Bill

### Part III Smoke Control Areas *Creation of smoke control areas*

#### 18 Declaration of smoke control area by local authority

(1) A local authority may by order declare the whole or any part of the district of the authority to be a smoke control area; and any order made under this section is referred to in this Act as a “smoke control order”.

(2) A smoke control order—

(a) may make different provision for different parts of the smoke control area;

(b) may limit the operation of [~~section 20 (prohibition of emissions of smoke [in Wales]) [or Schedule 1A (penalty for emission of smoke in England)]~~ Schedule 1A (penalty for emission of smoke in England or in Wales)] to specified classes of building in the area; and

Schedule 1,  
para 11(a)

(c) may exempt specified buildings or classes of building or specified fireplaces or classes of fireplace in the area from the operation of that section [or Schedule], upon such conditions as may be specified in the order;

and the reference in paragraph (c) to specified buildings or classes of building include a reference to any specified, or to any specified classes of, fixed boiler or industrial plant.

[(2A) For the purposes of this Part a smoke control order in England [or in Wales (as the case may be)] “applies” to a building, fireplace, fixed boiler or industrial plant if the operation of Schedule 1A is not excluded in relation to it by virtue of subsection (2)(b) or (c).]

Schedule 1,  
Para 11(b)

(3) A smoke control order may be revoked or varied by a subsequent order.

(4) The provisions of Schedule 1 apply to the coming into operation of smoke control orders.

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[Regulation of smoke and fuel in smoke control areas in  
Wales]

S18(2)

**[19E Penalty for emission of smoke in smoke control  
area in Wales]**

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

**[19F Acquisition and sale of unauthorised fuel: Wales]**

(1) Any person who—

- (a) acquires any solid fuel for use in a building to  
which a smoke control order in Wales applies;
- (b) acquires any solid fuel for use in a fireplace to  
which a smoke control order in Wales applies;
- (c) acquires any solid fuel for use in any fixed  
boiler or industrial plant to which a smoke  
control order in Wales applies; or
- (d) sells by retail any solid fuel in Wales for  
delivery by that person, or on that person's  
behalf, to—
  - (i) a building to which a smoke control  
order in Wales applies; or
  - (ii) premises in which there is any fixed  
boiler or industrial plant to which such an order  
applies,  
is guilty of an offence.

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

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

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

(5) In proceedings for an offence under subsection  
(1)(d), it is a defence for the person accused to



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prove that the person believed and had reasonable grounds for believing—

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

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

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

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

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

### **[19G Section 19F: interpretation**

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

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

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

### **[19H Exemptions relating to particular areas in Wales**

(1) The Welsh Ministers may, if it appears to them to be necessary or expedient to do so, by regulations suspend or relax the operation of—

(a) Schedule 1A (penalty for emission of smoke), or

(b) section 19(F)(1) (offences relating to acquisition and sale of fuel),

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in relation to the whole or any part of a smoke control area in Wales.

- (2) Before making regulations under subsection (1) the Welsh Ministers must consult the local authority that declared the smoke control area in question unless satisfied that, on account of urgency, such consultation is impracticable.
- (3) As soon as practicable after the making of such regulations the local authority must take such steps as appear to them suitable for bringing the effect of the regulations to the notice of persons affected by the regulations.]

~~**[Prohibition on emission of smoke in smoke control area]**~~

Schedule 1,  
Para 12

~~**[20 Prohibition on emission of smoke in smoke control area [in Wales]**~~

~~(1) — If, on any day, smoke is emitted from a chimney of any building within a smoke control area [in Wales], the occupier of the building shall be guilty of an offence.~~

~~(2) — If, on any day, smoke is emitted from a chimney (not being a chimney of a building) which serves the furnace of any fixed boiler or industrial plant within a smoke control area [in Wales], the person having possession of the boiler or plant shall be guilty of an offence.~~

~~(3) — Subsections (1) and (2) have effect —~~

~~(a) — subject to any exemptions for the time being in force under section 18, 21 or 22;~~

~~(b) — subject to section 51 (duty to notify offences to occupier or other person liable).~~

~~(4) — In proceedings for an offence under this section it shall be a defence to prove that the alleged emission was not caused by the use of any fuel other than an authorised fuel.~~

~~(5) — A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.~~

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~~[(5A) — In this Part, “authorised fuel” means a fuel included in a list of authorised fuels kept by the Scottish Ministers for the purposes of this Part.]~~

~~(5B) — The Scottish Ministers must —~~

- ~~(a) — publish the list of authorised fuels; and~~
- ~~(b) — publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.~~

~~(5C) — The list must be published in such manner as the Scottish Ministers consider appropriate.]~~

~~[(5D) — In the application of this Part to Wales, “authorised fuel” means a fuel included in a list of authorised fuels kept by the Welsh Ministers for the purposes of this Part.]~~

~~(5E) — The Welsh Ministers must —~~

- ~~(a) — publish the list of authorised fuels, and~~
- ~~(b) — publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.~~

~~(5F) — The list must be published in such manner as the Welsh Ministers consider appropriate.]~~

~~[(5ZA) — In the application of this Part to England, “authorised fuel” means a fuel included in a list of authorised fuels kept by the Secretary of State for the purposes of this Part.]~~

~~(5ZB) — The Secretary of State must —~~

- ~~(a) — publish the list of authorised fuels, and~~
- ~~(b) — publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.~~

~~(5ZC) — The list must be published in such manner as the Secretary of State considers appropriate.]~~

~~(6) — [Except as provided by subsection (5ZA), in] this Part “authorised fuel” means a fuel declared by regulations of the Secretary of State [Welsh Ministers] to be an authorised fuel for the purposes of this Part.]~~

## **[21 Power . . . to exempt certain fireplaces [in Wales]**

~~[(A1) — For the purposes of the application of this Part to England, the Secretary of State may exempt any class of fireplace from the provisions of section 20 (prohibition of smoke emissions in smoke control area) if he is satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.]~~

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~~(A2) — An exemption under subsection (A1) may be made subject to such conditions as the Secretary of State considers appropriate.~~

~~(A3) — The Secretary of State must —~~

~~(a) — publish a list of those classes of fireplace that are exempt under subsection (A1) including details of any conditions to which an exemption is subject;~~

~~(b) — publish a revised copy of the list as soon as is reasonably practicable after any change is made to the classes of fireplace that are so exempt or to the conditions to which an exemption is subject.~~

~~(A4) — The list must be published in such manner as the Secretary of State considers appropriate.]~~

~~[(1) — For the purposes of this Part, the Scottish Ministers may exempt any class or description of fireplace from the provisions of section 20 (prohibition of smoke emissions in smoke control areas) if they are satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.~~

~~(2) — An exemption under subsection (1) may be made subject to such conditions as the Scottish Ministers consider appropriate.~~

~~(3) — The Scottish Ministers must —~~

~~(a) — publish a list of those classes or descriptions of fireplace that are exempt under subsection (1), including details of any conditions to which an exemption is subject; and~~

~~(b) — publish a revised copy of the list as soon as is reasonably practicable after any change is made to the classes or descriptions of fireplace that are so exempt or to the conditions to which an exemption is subject.~~

~~(4) — The list must be published in such manner as the Scottish Ministers consider appropriate.]~~

~~[(4A) — For the purposes of the application of this Part to Wales, the Welsh Ministers may exempt any class of fireplace from the provisions of section 20 (prohibition of smoke emissions in smoke control area) if they are satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.~~

~~(4B) — An exemption under subsection (4A) may be made subject to such conditions as the Welsh Ministers consider appropriate.~~

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~~(4C) — The Welsh Ministers must —~~

~~(a) — publish a list of those classes of fireplace that are exempt under subsection (4A) including details of any conditions to which an exemption is subject;~~

~~(b) — publish a revised copy of the list as soon as is reasonably practicable after any change is made to the classes of fireplace that are so exempt or to the conditions to which an exemption is subject.~~

~~(4D) — The list must be published in such manner as the Welsh Ministers consider appropriate.]~~

~~[(5) — [Except where subsection (A1) applies, the Secretary of State [Welsh Ministers] may by order exempt any class of fireplace, upon such conditions as may be specified in the order, from the provisions of section 20 (prohibition of smoke emissions in smoke control area), if he is [they are] satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.]~~

#### **[22 Exemptions relating to particular areas [in Wales]**

~~(1) — The Secretary of State [Welsh Ministers] may, if it appears to him [them] to be necessary or expedient so to do, by order suspend or relax the operation of section 20 (prohibition of smoke emissions in smoke control area [in Wales]) in relation to the whole or any part of a smoke control area [in Wales].~~

~~(2) — Before making an order under subsection (1) the Secretary of State [Welsh Ministers] shall consult with the local authority unless he is [they are] satisfied that, on account of urgency, such consultation is impracticable.~~

~~(3) — As soon as practicable after the making of such an order the local authority shall take such steps as appear to them suitable for bringing the effect of the order to the notice of persons affected.]~~

#### ***[Dealings with unauthorised fuel]***

#### **[23 Acquisition and sale of unauthorised fuel in a smoke control area [in Wales]**

~~(1) — Any person who —~~

~~(a) — acquires any solid fuel for use in a building in a smoke control area [in Wales] otherwise than in a building or fireplace exempted from the operation of~~

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~~section 20 (prohibition of smoke emissions in smoke control area [in Wales]);~~

~~(b) — acquires any solid fuel for use in any fixed boiler or industrial plant in a smoke control area [in Wales], not being a boiler or plant so exempted; or~~

~~(c) — sells by retail any solid fuel [in Wales] for delivery by him or on his behalf to—~~

~~(i) — a building in a smoke control area [in Wales]; or~~

~~(ii) — premises in such an area in which there is any fixed boiler or industrial plant,~~

~~shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.~~

~~(2) — In subsection (1), “solid fuel” means any solid fuel other than an authorised fuel.~~

~~(3) — Subsection (1) shall, in its application to a smoke control area [in Wales] in which the operation of section 20 is limited by a smoke control order to specified classes of buildings, boilers or plant, have effect as if references to a building, boiler or plant were references to a building, boiler or plant of a class specified in the order.~~

~~(4) — The power of the *Secretary of State* [Welsh Ministers] under section 22 (exemptions relating to particular areas) to suspend or relax the operation of section 20 in relation to the whole or any part of a smoke control area [in Wales] includes power to suspend or relax the operation of subsection (1) in relation to the whole or any part of such an area.~~

~~(5) — In proceedings for an offence under this section consisting of the sale of fuel [in Wales] for delivery to a building or premises [in Wales], it shall be a defence for the person accused to prove that he believed and had reasonable grounds for believing—~~

~~(a) — that the building was exempted from the operation of section 20 or, in a case where the operation of that section is limited to specified classes of building, was not of a specified class; or~~

~~(b) — that the fuel was acquired for use in a fireplace, boiler or plant so exempted or, in a case where the operation of that section is limited to specified classes of boilers or plant, in a boiler or plant not of a specified class.]~~

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### ***Adaptation of fireplaces***

#### **24 Power of local authority to require adaptation of fireplaces in private dwellings**

(1) The local authority may, by notice in writing served on the occupier or owner of a private dwelling which is, or when a smoke control order comes into operation will be, within a smoke control area, require the carrying out of adaptations in or in connection with the dwelling to avoid ~~[contraventions of section 20 (prohibition of smoke emissions in smoke control area [in Wales]) [or the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England)].~~ the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales)]

Schedule 1,  
para 13

(2) The provisions of Part XII of the Public Health Act 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (1).

(3) Any reference in those provisions to the expenses reasonably incurred in executing the works shall, in relation to a notice under subsection (1), be read as a reference to three-tenths of those expenses or such smaller fraction of those expenses as the local authority may in any particular case determine.

(4) In the application of this section to Scotland—

(a) subsections (2) and (3) shall be omitted;

(b) section 111 of the Housing (Scotland) Act 1987 (which provides for an appeal to the sheriff against certain notices, demands and orders under that Act) shall apply in relation to a notice under subsection (1) of this section as it applies in relation to a repair notice under that Act; and

(c) subject to any such right of appeal as is mentioned in paragraph (b), if any person on whom a notice under subsection (1) is served fails to execute the works required by the notice within the time limited by the notice, the local authority may themselves execute the works and may recover from that person three-tenths, or such smaller fraction as the local authority may in any particular case determine, of the expenses reasonably incurred by them in so doing.

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## **26 Power of local authority to make grants towards adaptations to fireplaces in churches, chapels, buildings used by charities etc**

- (1) If, after the making of a smoke control order, the owner or occupier of any premises or part of any premises to which this section applies and which will be within a smoke control area as the result of the order incurs expenditure on adaptations in or in connection with the premises or part to avoid ~~[contraventions of section 20 (prohibition of smoke emissions in smoke control area [in Wales]) [or the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England)]~~ the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales), the local authority may, if they think fit, repay to him the whole or any part of that expenditure.

Schedule 1,  
para 14

- (2) This section applies to any premises or part of any premises which fall within one or more of the following paragraphs, that is to say—

(a) any place of public religious worship, being, in the case of a place in England or Wales, a place which belongs to the Church of England or to the Church in Wales (within the meaning of the Welsh Church Act 1914) or which is for the time being certified as required by law as a place of religious worship;

(b) any church hall, chapel hall or similar premises used in connection with any such place of public religious worship, and so used for the purposes of the organisation responsible for the conduct of public religious worship in that place;

(c) any premises or part of any premises occupied for the purposes of an organisation (whether corporate or unincorporated) which is not established or conducted for profit and whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare.

[

- (3) Where a smoke control order in England applies to a vessel which is moored (see section 44), subsection (2)(c)



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applies to the vessel as it applies in relation to premises.

]]

### ***Supplementary provisions***

#### **27 References to adaptations for avoiding contraventions of ~~[section 20 or]~~ Schedule 1A.**

Schedule 1,  
para 15 (a)

(1) References in this Part to adaptations in or in connection with a dwelling to avoid ~~[contraventions of section 20 (prohibition of smoke emissions from smoke control area [in Wales]) [or the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England)]~~ the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales) shall be read as references to the execution of any of the following works (whether in or outside the dwelling), that is to say—

Schedule 1,  
para 15 (b)(i)

- (a) adapting or converting any fireplace;
- (b) replacing any fireplace by another fireplace or by some other means of heating or cooking;
- (c) altering any chimney which serves any fireplace;
- (d) providing gas ignition, electric ignition or any other special means of ignition; or
- (e) carrying out any operation incidental to any of the operations mentioned in paragraphs (a) to (d);

being works which are reasonably necessary in order to make what is in all the circumstances suitable provision for heating and cooking without ~~contraventions of section 20 [or]~~ incurring liability under Schedule 1A].

Schedule 1,  
para 15 (b)(ii)

(2) For the purposes of this section the provision of any igniting apparatus or appliance (whether fixed or not) operating by means of gas, electricity or other special means shall be treated as the execution of works.

(3) Except for the purposes of section 24 (power of local authority to require certain adaptations), works which make such suitable provision as is mentioned in subsection (1) shall not be treated as not being adaptations to avoid ~~[contraventions of section 20 of this Act [or]~~ liability under Schedule 1A to this Act] by reason that they go beyond what is reasonably necessary for that purpose, but any expenditure incurred in executing them in excess of the expenditure which would have been reasonably incurred in doing what was reasonably necessary shall be left out of account.

Schedule 1,  
para 15 (c)

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(4) References in this section to a dwelling include references to any premises or part of any premises to which section 26 (grants towards certain adaptations in churches and other buildings) applies [, and to any vessel to which section 26 or 26A (adaptations of vessels in England) applies]<sup>6</sup> .

]

## **28 Cases where expenditure is taken to be incurred on execution of works**

(1) References in this Part to expenses incurred in the execution of works include references to the cost of any fixed cooking or heating appliance installed by means of the execution of the works, notwithstanding that the appliance can be readily removed from the dwelling without injury to itself or the fabric of the dwelling.

(2) For the purposes of this Part a person who enters into either—

(a) a conditional sale agreement for the sale to him, or

(b) a hire-purchase agreement for the bailment or (in Scotland) hiring to him,

of a cooking or heating appliance shall be treated as having incurred on the date of the agreement expenditure of an amount equal to the price which would have been payable for the appliance if he had purchased it for cash on that date.

(3) References in this section to a dwelling include references to any premises or part of any premises to which section 26 (grants towards certain adaptations in churches and other buildings) applies, and to any vessel to which section 26 or section 26A (adaptations of vessels in England)

### **[28B Guidance for local authorities in Wales**

S19

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

## **29 Interpretation of Part III**

In this Part, except so far as the context otherwise requires—

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~~“authorised fuel” has the meaning given in [section 20];~~

Schedule 1,  
para 16 (a)

*“conditional sale agreement”* means an agreement for the sale of goods under which—

- (a) the purchase price or part of it is payable by instalments; and
- (b) the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

*“heating”* , in relation to a dwelling, includes the heating of water;

*“hire-purchase agreement”* means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired; and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
  - (i) the exercise of an option to purchase by that person;
  - (ii) the doing of any other specified act by any party to the agreement; and
  - (iii) the happening of any other specified event;

*“old private dwelling”* has the meaning given in section 25[;]<sup>2</sup>

*“smoke control order”* means an order made by a local authority under section 18[; and]<sup>3</sup>

[

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

]

Please note: this document has been prepared solely to assist people in understanding the Environment (Air Quality and Soundscapes) (Wales) Bill. It should not be relied on for any other purpose.

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

Schedule 1,  
para 16 (b)

#### **45 Exemption for purposes of investigations and research**

(1) If the local authority are satisfied, on the application of any person interested, that it is expedient to do so for the purpose of enabling investigations or research relevant to the problem of the pollution of the air to be carried out without rendering the applicant liable to proceedings brought under or by virtue of any of the provisions of this Act or the Environmental Protection Act 1990 mentioned below, the local authority may by notice in writing given to the applicant exempt, wholly or to a limited extent,—

(a) any chimney from the operation of sections I (dark smoke), 5 (grit and dust), ~~[20 (smoke in smoke control area)]~~ and 43 (railway engines) of this Act and Part III of the Environmental Protection Act 1990 (statutory nuisances);

Schedule 1,  
para 17 (a)

(b) any furnace, boiler or industrial plant from the operation of section 4(2) (new furnaces to be as far as practicable smokeless);

(c) any premises from the operation of section 2 (emissions of dark smoke);

(d) any furnace from the operation of sections 6 or 8 (arrestment plant) and 10 (measurement of grit, dust and fumes by occupier), and

(e) the acquisition or sale of any fuel specified in the notice from the operation of ~~[section 23]~~ section 19F (acquisition and sale of unauthorised fuel in smoke control area),

Schedule 1,  
para 17 (b)

in each case subject to such conditions, if any, and for such period as may be specified in the notice.

#### **51 Duty to notify occupiers of offences**

(1) If, in the opinion of an authorised officer of the local authority—

(a) an offence is being or has been committed under section 1~~[, 2 or 20]~~ or 2 (prohibition of certain emissions of smoke); [...]

Schedule 1,  
para 18 (a)

[...] he shall, unless he has reason to believe that notice

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of it has already been given by or on behalf of the local authority, as soon as may be notify the appropriate person, and, if his notification is not in writing, shall before the end of the four days next following the day on which he became aware of the offence, confirm the notification in writing.

(2) For the purposes of subsection (1), the appropriate person to notify is the occupier of the premises, the person having possession of the boiler or plant, the owner of the railway locomotive engine or the owner or master or other officer or person in charge of the vessel concerned, as the case may be.

(3) In any proceedings for an offence under section 1[, ~~2 or 20~~ or 2] it shall be a defence to prove that the provisions of subsection (1) have not been complied with in the case of the offence; and if no such notification as is required by that subsection has been given before the end of the four days next following the day of the offence, that subsection shall be taken not to have been complied with unless the contrary is proved.

Schedule 1,  
para 18 (b)

## 61 Joint exercise of local authority functions

(1) Sections 6, 7, 9 and 10 of the Public Health Act 1936 (provisions relating to joint boards) shall, so far as applicable, have effect in relation to this Act as if the provisions of this Act were provisions of that Act.

(2) . . .

(3) Without prejudice to subsections (1) and (2), any two or more local authorities may combine for the purpose of declaring an area to be a smoke control area and in that event—

(a) the smoke control area may be the whole of the districts of those authorities or any part of those districts;

(b) the references in section 18, ~~Schedule 1 and paragraph 1 of Schedule 2~~ and Schedule 1 to the local authority shall be read as references to the local authorities acting jointly;

(c) the reference in paragraph 1 of Schedule 1 to a place in the district of the local authority shall be construed as a reference to a place in each of the districts of the local authorities;

Schedule 1,  
para 19

but, except as provided in this subsection, references in this Act to the local authority shall, in relation to a building

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or dwelling, or to a boiler or industrial plant, in the smoke control area, be read as references to that one of the local authorities within whose district the building, dwelling, boiler or plant is situated.

(4) For the avoidance of doubt it is hereby declared that where a . . . joint board has functions, rights or liabilities under this Act—

(a) any reference in this Act to a local authority or its district includes, in relation to those functions, rights or liabilities, a reference to the . . . board or its district;

(b) for the purposes of this Act, no part of the district of any such . . . board is to be treated, in relation to any matter falling within the competence of the . . . board, as forming part of the district of any other authority.

(5) Any premises which extend into the districts of two or more authorities shall be treated for the purposes of this Act as being wholly within such one of those districts—

(a) in England and Wales, as may from time to time be agreed by those authorities; or

(b) in Scotland, as may from time to time be so agreed or, in default of agreement, determined by the Secretary of State.

## **63 Regulations and orders**

(1) Any power of the Secretary of State under this Act to make an order or regulations—

(a) includes power to make different provision in the order or regulations for different circumstances;

(b) includes power to make such incidental, supplemental and transitional provision as the Secretary of State considers appropriate; and

(c) is exercisable by statutory instrument except in the case of the powers conferred by sections 19(4) and 60 and paragraph 3 of Schedule 3.

(2) Any statutory instrument containing regulations made under this Act [by the Secretary of State], except an instrument containing regulations a draft of which is required by section 6(3), 10(5) or 47(2) [or paragraph 3(4) or 4(6) of Schedule 1A] to be approved by a resolution of each House of Parliament, shall be subject

Schedule 1,  
para 20 (a)

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to annulment in pursuance of a resolution of either House of Parliament.

[(2A) Any statutory instrument containing regulations made under this Act by the Welsh Ministers, except an instrument containing regulations a draft of which is required by section 6(3), 10(5) or 47(2) or paragraph 3(5) or 4(7) of Schedule 1A to be approved by a resolution of Senedd Cymru, is subject to annulment in pursuance of a resolution of Senedd Cymru.]

Schedule 1,  
para 20 (b)

(3) Any statutory instrument containing an order under section [19C[];] ~~21 or 22~~ shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Schedule 1,  
para 20 (c)

## **SCHEDULE 1 COMING INTO OPERATION OF SMOKE CONTROL ORDERS**

### **5**

An order varying a previous order so as to exempt specified buildings or classes of building or specified fireplaces or classes of fireplace from the operation of ~~[section 20 (prohibition of smoke emissions in smoke control area [in Wales]) [or Schedule 1A (penalty for emission of smoke in England)]~~ Schedule 1A (penalty for emission of smoke in England or Wales)] may come into operation on, or at any time after, the date on which it is made.

Schedule 1,  
para 21 (a)

[

### **6A**

When a local authority in England has made an order, the authority must—

- (a) inform the Secretary of State that it has done so, and
- (b) provide the date on which the order is to come, or came, into operation.

]

### **6B**

When a local authority in Wales has made an order, the authority must—

- (a) inform the Welsh Ministers that it has done so,  
and

Schedule 1,  
para 21 (b)

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(b) provide the date on which the order is to come, or came, into operation.]

**[SCHEDULE 1A PENALTY FOR EMISSION OF SMOKE IN SMOKE CONTROL AREA IN ENGLAND [OR WALES]]**

Schedule 1,  
para 2

*[Key definitions*

**1**

In this Schedule—

“relevant chimney” means—

(a) a chimney of a building to which a smoke control order in England [or in Wales] applies, or

Schedule 1,  
para 3 (b)

(b) a chimney which serves the furnace of any fixed boiler or industrial plant to which a smoke control order in England [or in Wales] applies;

Schedule 1,  
para 3 (b)

“*person liable*”, in relation to a relevant chimney, means—

(a) if the chimney is the chimney of a building, the occupier of the building, or

(b) if the chimney serves the furnace of any fixed boiler or industrial plant, the person having possession of the boiler or plant.

]

“relevant national authority” means—

Schedule 1,  
para 3 (a)

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

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

*Amount of penalty*

**3**

(1) The minimum amount of a financial penalty that may be imposed under this Schedule is £175.

(2) The maximum amount of a financial penalty that may be



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imposed under this Schedule is £300.

(3) The [~~Secretary of State~~ relevant national authority] may by regulations amend sub-paragraph (1) or (2) so as to substitute a different amount for the amount specified there.

Schedule 1,  
para 4(a)

(4) Regulations under sub-paragraph (3) may not be made [~~by the Secretary of State~~] unless a draft of the regulations has been laid before, and approved by resolution of, each House of Parliament.

Schedule 1,  
para 4(b)

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

Schedule 1,  
para 4(c)

*Right to object to proposed financial penalty*

**4**

(1) A person to whom a notice of intent is given may, within the period of 28 days beginning with the day after that on which the notice was given—

- (a) object in writing to the local authority on a ground specified in sub-paragraph (2), and
- (b) provide evidence that supports the objection.

(2) The grounds of objection referred to in sub-paragraph (1) are—

- (a) that there was no emission of smoke from the chimney on the occasion specified in the notice of intent;
- (b) that the chimney was not a chimney to which a smoke control order applied on the occasion specified in the notice of intent;
- (c) that the person to whom the notice of intent was given was not a person liable in relation to the chimney on the occasion specified in the notice of intent;
- (d) that there are other compelling reasons why the financial penalty should not be imposed.

(3) Where a person objects on the ground specified in sub-paragraph (2)(c), the objection must include the name

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and address of the person who was the person liable on the occasion specified in the notice of intent (if known).

(4) The [~~Secretary of State~~ relevant national authority] may by regulations amend this paragraph so as to amend the grounds of objection listed in sub-paragraph (2). Schedule 1, para 5(a)

(5) Before making regulations under sub-paragraph (4) the [~~Secretary of State~~ relevant national authority] must consult anyone that the [~~Secretary of State~~ relevant national authority] considers may have an interest in the proposed regulations. Schedule 1, para 5(b)

(6) Regulations under sub-paragraph (4) may not be made [~~by the Secretary of State~~] unless a draft of the regulations has been laid before, and approved by resolution of, each House of Parliament. Schedule 1, para 5(c)

[(7) Regulations under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the regulations has been laid before, and approved by resolution of, Senedd Cymru.] Schedule 1, para 5(d)

*Decision regarding a final notice*

## 5

(1) Where a local authority [~~in England~~] has given a notice of intent to a person, the authority may impose a financial penalty on the person if the local authority so decides within— Schedule 1, para 6

(a) the period of 56 days beginning with the day on which an objection is made under paragraph 4, or

(b) if no such objection is made, the period of 56 days beginning with the day after the day on which the period mentioned in paragraph 4(1) ended.

(2) If the local authority decides not to impose a financial penalty on a person, or does not decide to impose a financial penalty on the person within the period specified in sub-paragraph (1), the authority must give a notice to that person that informs the person that a financial penalty will not be imposed.

]

*Final notice*

## 6

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(1) This paragraph applies where a local authority [~~in England~~] decides to impose a financial penalty on a person who was given a notice of intent.

Schedule 1,  
para 7

(2) The local authority may impose a financial penalty by a notice given to that person (a “final notice”).

(3) A final notice must specify—

- (a) the amount of the financial penalty,
- (b) the reasons for imposing the penalty,
- (c) information about how to pay the penalty,
- (d) the period for payment of the penalty, and
- (e) information about rights of appeal.

(4) The final notice must require the financial penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given.

]

## **SCHEDULE 2 SMOKE CONTROL ORDERS: EXPENDITURE ON OLD PRIVATE DWELLINGS**

### **Section 25(1)**

#### ***Grants for expenditure incurred in adaptation of fireplaces***

1

~~(1) This paragraph applies if, after the making of a smoke control order by a local authority, the owner or occupier of, or any person interested in, an old private dwelling which is or will be within a smoke control area as a result of the order incurs relevant expenditure.~~

Schedule 1,  
para 9(a)

~~(2) For the purposes of this paragraph “relevant expenditure” is expenditure on adaptations in or in connection with an old private dwelling to avoid contraventions of section 20 (prohibition of smoke emissions in smoke control area) which—~~

- ~~(a) is incurred before the coming into operation of the order and with the approval of the local authority given for the purposes of this paragraph; or~~

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~~(b) is reasonably incurred in carrying out adaptations required by a notice given under section 24(1) (power of local authority to require certain adaptations).~~

~~(3) If the adaptations in question are carried out to the satisfaction of the local authority, the local authority—~~

~~(a) shall repay to him seven tenths of the relevant expenditure; and~~

~~(b) may, if they think fit, also repay to him the whole or any part of the remainder of that expenditure.~~

~~(4) Where relevant expenditure is incurred by the occupier of a private dwelling who is not an owner of the dwelling and the adaptations in question consist of or include the provision of any cooking or heating appliance which can be readily removed from the dwelling without injury to itself or the fabric of the dwelling, the following provisions shall have effect as respects so much of the expenditure as represents the cost of the appliance, that is to say—~~

~~(a) not more than seven twentieths of that part of that expenditure shall be repaid until two years from the coming into operation of the order; and~~

~~(b) any further repayment of that part of that expenditure shall be made only if the appliance has not by then been removed from the dwelling and, if made, shall be made to the person who is the occupier of the dwelling at the end of the two years.~~

~~(5) The approval of a local authority to the incurring of expenditure may be given for the purposes of this paragraph, if the authority think fit in the circumstances of any particular case, after the expenditure has been incurred.~~

~~(6) This paragraph has effect subject to paragraph 4.~~

## 2

~~For the purposes of this Schedule, an appliance is unsuitable for installation in any area or (as the case may be) in any district or part of Great Britain if it tends, by~~

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~~reason of its consumption of fuel (of whatever kind) or its consumption of fuel at times when it is generally used, to impose undue strain on the fuel resources available for that area, district or part.~~

~~3~~

~~(1) Sub-paragraph (2) applies if—~~

~~(a) after a local authority have resolved to make a smoke control order declaring a smoke control area (not being an order varying a previous order so made); and~~

~~(b) before notice of the making of the order is first published in accordance with Schedule 1,~~

~~the authority pass a resolution designating any class of heating appliance as being, in their opinion, unsuitable for installation in that area.~~

~~(2) No payment shall be made by the authority under paragraph 1 in respect of expenditure incurred in providing, or in executing works for the purpose of the installation of, any heating appliance of the class designated by the resolution in or in connection with a dwelling within the area to which the order relates.~~

~~(3) No payment shall be made under paragraph 1 by a local authority in respect of expenditure incurred in providing, or in executing works for the purpose of the installation of, any heating appliance which, when the expenditure was incurred, fell within any class of appliance for the time being designated for the purposes of this paragraph by the Secretary of State as being in his opinion—~~

~~(a) unsuitable for installation in the district of that authority; or~~

~~(b) generally unsuitable for installation in the part of Great Britain with which the Secretary of State is concerned,~~

~~unless the approval of the local authority in respect of that expenditure was given for the purposes of paragraph 1 at a time when the appliance in question did not fall within any class of appliance so designated.~~

~~(4) Retrospective approval of expenditure may only be given by a local authority by virtue of paragraph 1(5) in the case of expenditure incurred in providing, or in executing works for the purpose of the installation of, a heating appliance, if the appliance—~~

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~~(a) did not at the time when the expenditure was incurred; and~~

~~(b) does not when the approval is given,~~

~~fall within a class of appliance for the time being designated by the Secretary of State for the purposes of this paragraph as regards the district of that authority or generally.~~

~~(5) In accordance with the preceding provisions of this Schedule, expenditure within sub-paragraph (3) or (4) shall be left out of account for the purposes of paragraph 4.~~

### ***Exchequer contributions to certain expenditure***

#### **4**

(1) The Secretary of State may, out of money provided by Parliament, make a contribution towards the following expenses, of any local authority (if approved by him), that is to say—

~~(a) any expenses of the local authority in making payments under paragraph 1;~~

~~(b) any expenses incurred by them in making, in or in connection with old private dwellings owned by them or under their control, adaptations to avoid [contraventions of section 20; and~~

(c) any expenses incurred by them in carrying out adaptations required by notices under section 24 in or in connection with old private dwellings.

Schedule 1,  
para 9(b)

(2) A contribution under this paragraph in respect of any expenses shall be a single payment equal—

~~(a) in the case of expenses mentioned in sub-paragraph (1)(a), to four-sevenths of the amount of the expenses;~~

~~(b) in the case of expenses mentioned in sub-paragraph (1)(b), to two-fifths of the amount of the expenses; and~~

(c) in the case of expenses mentioned in sub-paragraph (1)(c), to four-sevenths of the amount arrived at by deducting the recoverable amount from the

Schedule 1,  
para 9(c)

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amount of those expenses.

- (3) In sub-paragraph (2)(c), “*the recoverable amount*” means , in relation to any expenses, the fraction of those expenses (whether three-tenths or some smaller fraction determined by the local authority, in the case of those expenses, under section 24(2) or (3)) which the local authority have power to recover from the occupier or owner by virtue of section 24(2) or (3).

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## **Transport Act 2000**

### **AMENDMENTS TO BE MADE BY THE ENVIRONMENT (AIR QUALITY AND SOUNDSCAPES) (WALES) BILL**

This document is intended to show how the provisions of the Transport Act 2000 as they applied in relation to Wales on 6 December 2022 would look as amended by the Environment (Air Quality and Soundscapes) (Wales) Bill (if enacted as amended at stage 2 on 11 October 2023).

Material to be deleted by the Environment (Air Quality and Soundscapes) (Wales) Bill is in strikethrough, e.g. ~~omitted material looks like this~~. Material to be added by the Environment (Air Quality and Soundscapes) (Wales) Bill is underlined, e.g. added material looks like this. References to the relevant amending provisions of the Bill are provided in the right-hand column on each page.

A number of related provisions from the Act, although not being amended, are included to aid understanding of the proposed amendments.

#### **Warning**

This text has been prepared by officials of the Climate Change and Rural Affairs Group of the Welsh Government. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the Act or the Bill.

It has been produced solely to help people understand the effect of the Environment (Air Quality and Soundscapes) (Wales) Bill. It is not intended for use in any other context.



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## Transport Act 2000

Amending  
section of the  
Environment (Air  
Quality and  
Soundscapes)  
(Wales) Bill

### 167 Trunk road charging schemes

(1) A trunk road charging scheme may only be made—

(a) by the Secretary of State in respect of roads for which he [or a strategic highways company] is the traffic authority, or

(b) by the National Assembly for Wales in respect of roads for which it is the traffic authority.

(2) A trunk road charging scheme [under subsection (1)(a)] may only be made in respect of a road if—

S21(2)(a)

(a) the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length, or

(b) a local traffic authority[, an Integrated Transport Authority][, a combined authority] or Transport for London has requested the charging authority to make the trunk road charging scheme in connection with a charging scheme under this Part, or a scheme under Schedule 23 to the Greater London Authority Act 1999, made or proposed by them.

[(3) A trunk road charging scheme under subsection (1)(b) may only be made in respect of a road if—

S21(2)(b)

(a) the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length,

(b) the scheme is made for the purpose of reducing or limiting air pollution in the vicinity of the road (which may comprise or include a length of road of the kind described in paragraph (a)),

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

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

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## **170 Charging schemes: consultation and inquiries**

[

(1A) Where the charging authority or any of the charging authorities are—

- (a) a local traffic authority for an area in England, or
- (b) an Integrated Transport Authority [ or a combined authority]<sup>2</sup>,

that authority or those authorities (acting alone or jointly) must consult such local persons, and such representatives of local persons, as they consider appropriate about the charging scheme.

(1B) In subsection (1A)—

*“local persons”* means any persons who are likely to be affected by, or interested in, the making of the scheme;

*“representatives”* means any persons who appear to the charging authority or charging authorities to be representative of local persons.

(1C) In any other case, the charging authority or the charging authorities (acting jointly) may, at any time before an order making, varying or revoking a charging scheme under this Part is made, consult such persons as they consider appropriate about the charging scheme, variation or revocation.

]

(2) The charging authority or the charging authorities (acting jointly)—

- (a) may cause an inquiry to be held in relation to a charging scheme under this Part, or the variation or revocation of such a scheme, and
- (b) may appoint the person or persons by whom such an inquiry is to be held.

(3) [The Welsh Ministers]<sup>1</sup> may at any time—

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(a) before an order making or varying a charging scheme under this Part [ which relates wholly or partly to Wales]<sup>1</sup> (other than a trunk road charging scheme) is made, or

(b) (where such an order has to be confirmed) before it is confirmed,

consult other persons, or require the charging authority or authorities to consult other persons, about the charging scheme or variation.

(4) [The Welsh Ministers] —

(a) may cause an inquiry to be held in relation to a charging scheme under this Part [ which relates wholly or partly to Wales] (other than a trunk road charging scheme) or the variation of such a scheme, and

(b) may appoint the person or persons by whom such an inquiry is to be held.

(5) In the case of a joint local-London charging scheme [ or joint ITA-London charging scheme]<sup>3</sup> —

(a) the Greater London Authority may, at any time before an order making, varying or revoking the charging scheme is confirmed by that Authority, consult other persons, or require the charging authorities to consult other persons, about the charging scheme, variation or revocation [.]<sup>1</sup>

[...]

(6) Subsections (2) and (3) of section 250 of the Local Government Act 1972 (witnesses at local inquiries) apply in relation to any inquiry held by virtue of this section.

(7) Where an inquiry is held by virtue of this section in relation to a charging scheme, or the variation or revocation of such a scheme, the costs of the inquiry shall be paid—

(a) in the case of a trunk road charging scheme made by virtue of section 167(2)(b) [or (3)(c)], by the local traffic authority[, Integrated Transport Authority or combined authority] which requested

S21(3)

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the making of the scheme (or Transport for London, if it did), and

## **SCHEDULE 12 ROAD USER CHARGING AND WORKPLACE PARKING LEVY: FINANCIAL PROVISIONS**

### ***Net proceeds***

#### **2**

(1) In this Schedule “*net proceeds*”, in relation to a relevant scheme and a financial year, means the amount (if any) by which—

(a) the amounts received under or in connection with the scheme which are attributable to the financial year, exceed

(b) the expenses incurred for or in connection with the scheme which are so attributable.

(2) For the purposes of this Schedule—

(a) the amounts received under or in connection with a relevant scheme, and

(b) the expenses incurred for or in connection with a relevant scheme,

and the extent to which they are attributable to any financial year, shall be determined in accordance with regulations made by the appropriate national authority.

(3) Regulations under sub-paragraph (2) may, in particular, provide that—

(a) any such costs of constructing, improving or maintaining roads in respect of which charges are imposed by trunk road charging schemes, and any such costs of managing traffic on those roads, as are specified by or determined in accordance with the regulations, or

(b) any such payments made for or in respect of the construction, improvement or maintenance of those roads, or the management of traffic on them, as are so specified or determined,

are to be regarded, to the extent so specified or determined, as expenses incurred for or in connection

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with the trunk road charging schemes.

(4) Where a trunk road charging scheme is made by virtue of section 167(2)(b) [or (3)(c)], the relevant authority and the local traffic authority[, Integrated Transport Authority or combined authority] which requested the making of the scheme (or Transport for London, if it did) may agree that—

Schedule 2, para  
2

**Apportionment**

**3**

(1) A relevant scheme which is—

(a) a joint local charging scheme or licensing scheme, [...]¹

[

(aa) a joint local-ITA charging scheme,

]

(b) a joint local-London charging scheme or licensing scheme, [ or]

[

(c) a joint ITA-London charging scheme,

] shall provide for the net proceeds of the scheme to be apportioned between the relevant authorities.

(2) Where a trunk road charging scheme is made by virtue of section 167(2)(b) [or (3)(c)]—

Schedule 2, para  
3

**Application of proceeds by Secretary of State and Assembly**

Schedule 2, para  
4

**13**

(1) In the case of a trunk road charging scheme—

(a) which is made by virtue of paragraph (a) of subsection (2) of section 167, or

(b) which is made by virtue of paragraph (b) of that subsection [...]¹ ,

the relevant authority's [Secretary of State's] share of the net proceeds is available only for application for the purpose of directly or indirectly facilitating the

Schedule 2, para  
5(a)

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achievement of any policies or proposals relating to transport.

[...]

(3) [Sub-paragraph (1)(a)]<sup>1</sup> applies during the period of ten years beginning with the coming into force of a scheme [ made by virtue of section 167(2)(a)]<sup>1</sup> .

Schedule 2, para  
5(b)

(4) The ~~appropriate national authority~~[Secretary of State] may by regulations make provision as to circumstances in which—

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

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

for the purposes of determining when the period specified in sub-paragraph (3) begins or expires in the case of a scheme.

(5) Except where [sub-paragraph (1)(a)]<sup>1</sup> applies, the ~~relevant authority's~~ [Secretary of State's] share of the net proceeds of a trunk road charging scheme [ made by virtue of section 167(2)(a)]<sup>1</sup> is available to be applied only as may be specified in, or determined in accordance with, regulations made by the ~~appropriate national authority~~ [Secretary of State].

Schedule 2, para  
5(c)(i)

Schedule 2, para  
5 (c)(ii)

[

Application of proceeds by Welsh Ministers

Schedule 2, para  
6

14 (1) In the case of a trunk road charging scheme—

(a) which is made by virtue of subsection (3) of section 167,

(b) which is made wholly or partly for the purposes of reducing or limiting air pollution,

the Welsh Ministers must publish a statement and lay it before Senedd Cymru as soon as reasonably practicable after the scheme is made.

(2) The statement must—

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(a) state that the scheme is made wholly or partly for the purpose of limiting or reducing air pollution;

(b) provide an estimate of the net proceeds of the scheme for at least the first five financial years in which the scheme will be in operation;

(c) specify how the Welsh Ministers propose to apply their share of the net proceeds, and

(d) provide an assessment of the expected effect those proposals on air quality (if any).

15 (1) In the case of a trunk road charging scheme—

(a) which is made by virtue of subsection (3) of section 167, and

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

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

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

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

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

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

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

(4) Where sub-paragraph (1) no longer applies to a scheme made by virtue of paragraph (a) of

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subsection (3) of section 167, the Welsh Ministers' share of the net proceeds of the scheme is available to be applied only as may be specified in, or determined in accordance with, regulations made by the Welsh Ministers.

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

### **197.— Part III: regulations and orders.**

- (1) Any power to make regulations under this Part—
- (a) is exercisable by statutory instrument,
  - (b) includes power to make different provision for different cases, and
  - (c) may be exercised so as to make incidental, consequential, supplementary or transitional provision or savings.
- (2) The power to make an order making, varying or revoking a trunk road charging scheme is exercisable by statutory instrument.
- (3) Regulations under [paragraph 13(5) of Schedule 12]<sup>1</sup> shall not be made without the consent of the Treasury.
- (4) Regulations shall not be made by the Secretary of State under—
- (a) section 182(5), or
  - (b) [paragraph 13(5) of Schedule 12]<sup>1</sup>,
- unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons.
- (5) A statutory instrument containing regulations made by the Secretary of State or the Lord Chancellor under any other provision of this Part shall be subject



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to annulment in pursuance of a resolution of either House of Parliament.

(6) The references in subsections (4) and (5) to regulations made by the Secretary of State include regulations made by him jointly with the ~~National Assembly for Wales~~ [Welsh Ministers].

Schedule 2, para 7(a)

[

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

Schedule 2, para 7(b)

(a) section 182(5), or

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

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

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

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

]

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## **Environment Act 2021**

### **AMENDMENTS TO BE MADE BY THE ENVIRONMENT (AIR QUALITY AND SOUNDSCAPES) (WALES) BILL**

This document is intended to show how the provisions of the Environment Act 2021 as they applied in relation to Wales on 6 December 2022 would look as amended by the Environment (Air Quality and Soundscapes) (Wales) Bill (if enacted as amended at stage 2 on 11 October 2023).

Material to be deleted by the Environment (Air Quality and Soundscapes) (Wales) Bill is in strikethrough, e.g. ~~omitted material looks like this~~. Material to be added by the Environment (Air Quality and Soundscapes) (Wales) Bill is underlined, e.g. added material looks like this. References to the relevant amending provisions of the Bill are provided in the right-hand column on each page.

A number of related provisions from the Act, although not being amended, are included to aid understanding of the proposed amendments.

#### **Warning**

This text has been prepared by officials of the Climate Change and Rural Affairs Group of the Welsh Government. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the Act or the Bill.

It has been produced solely to help people understand the effect of the Environment (Air Quality and Soundscapes) (Wales) Bill. It is not intended for use in any other context.

Please note: this document has been prepared solely to assist people in understanding the Environment (Air Quality and Soundscapes) (Wales) Bill. It should not be relied on for any other purpose.

## **Environment Act 2021**

*Amending  
section of the  
Environment (Air  
Quality and  
Soundscapes)  
(Wales) Bill*

### **General provisions**

#### **147 Commencement**

(4) The following provisions of this Act come into force on such day as the Welsh Ministers may by regulations appoint—

(a) section 50 and Schedule 4 (producer responsibility obligations), so far as relating to Wales;

(b) section 60 (hazardous waste), so far as relating to Wales;

(c) section 64 (charging powers), so far as relating to the Natural Resources Body for Wales;

(d) section 68 (littering enforcement), so far as relating to Wales;

(e) in section 69 (fixed penalty notices), subsections (3) and (5) and subsection (1) so far as relating to those subsections;

~~(f) Part 2 of Schedule 12 (smoke control areas) and section 73 so far as relating to that Part;~~

Schedule 1,  
paragraph 22(a)

(g) sections 78 and 79 (water management plans etc), so far as relating to undertakers whose areas are wholly or mainly in Wales;

(h) sections 85 and 87 (amendments to Water Industry Act 1991), so far as relating to undertakers whose areas are wholly or mainly in Wales and licensees using the systems of such undertakers;

(i) section 95 (valuation of other land in drainage districts: Wales);

(j) section 96 (valuation of agricultural land in drainage districts), so far as relating to internal

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drainage districts which are wholly or mainly in Wales.

**SCHEDULE 12 SMOKE CONTROL IN ENGLAND AND WALES**  
**Part 2 Principal Amendments to the Clean Air Act 1993: Wales**

Schedule 1,  
paragraph 22(b)

**9**

~~The Clean Air Act 1993 is amended as follows.~~

**10**

~~(1) — Section 20 (prohibition on emission of smoke in smoke control area) is amended as follows.~~

~~(2) — After subsection (5C) insert —~~

~~“(5D) — In the application of this Part to Wales, “authorised fuel” means a fuel included in a list of authorised fuels kept by the Welsh Ministers for the purposes of this Part.~~

~~(5E) — The Welsh Ministers must —~~

~~(a) — publish the list of authorised fuels, and~~

~~(b) — publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.~~

~~(5F) — The list must be published in such manner as the Welsh Ministers consider appropriate.”~~

~~(3) — Omit subsection (6).~~

**11**

~~(1) — Section 21 (power to exempt certain fireplaces) is amended as follows.~~

~~(2) — After subsection (4) insert —~~

~~“(4A) — For the purposes of the application of this Part to Wales, the Welsh Ministers may exempt any class of fireplace from the provisions of section 20 (prohibition of smoke emissions in smoke control area) if they are satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke.~~

~~(4B) — An exemption under subsection (4A) may be made subject to such conditions as the Welsh Ministers consider appropriate.~~

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~~{4C}—The Welsh Ministers must—~~

~~{a}—publish a list of those classes of fireplace that are exempt under subsection (4A) including details of any conditions to which an exemption is subject;~~

~~{b}—publish a revised copy of the list as soon as is reasonably practicable after any change is made to the classes of fireplace that are so exempt or to the conditions to which an exemption is subject.~~

~~{4D}—The list must be published in such manner as the Welsh Ministers consider appropriate.”~~

~~{3}—Omit subsection (5).~~

## Annex 5 – Glossary

<b>Abbreviation</b>	<b>Meaning</b>
AQAP	Air Quality Action Plan
AQMA	Air Quality Management Area
CAA 1993	The Clean Air Act 1993
CAAP	Clean Air Advisory Panel
CAZ	Clean Air Zone
EO	Executive Officer
EU	European Union
FBC	Full Business Case
FPN	Fixed Penalty Notice
G7	Grade 7
GoWA 2006	Government of Wales Act 2006
HEO	Higher Executive Officer
HGV	Heavy Goods Vehicle
LAQM	Local Air Quality Management
LEZ	Low Emission Zone
LGV	Light Goods Vehicle
NECR	National Emissions Ceiling Regulations
NH <sub>3</sub>	Ammonia
NO <sub>2</sub>	Nitrogen Dioxide
NO <sub>x</sub>	Nitrogen Oxides
NRW	Natural Resources Wales
NSAP	Noise and Soundscape Action Plan
NTDP	National Transport Delivery Plan
PHW	Public Health Wales
PM	Particulate matter
PM <sub>2.5</sub>	Fine particulate matter
PPW	Public Planning Wales
PSB	Public Service Board
RIA	Regulatory Impact Assessment
RUC	Road User Charging
SCA	Smoke Control Area
Senedd	Senedd Cymru
SEO	Senior Executive Officer
SO <sub>2</sub>	Sulphur Dioxide
TAN	Technical Advice Note
The 1986 Regulations	The Road Vehicles (Construction and Use) Regulations 1986 (S.I.1986/1078)
The 1995 Act	The Environment Act 1995
The 2003 Regulations	The Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003

The 2010 Act	The Equality Act 2010
The 2021 Act	The Environment Act 2021
The Bill	The Environment (Air Quality and Soundscapes) (Wales) Bill
ULEZ	Ultra-low Emission Zone
UNCRC	United Nations Convention on the Rights of the Child
WFGA	Well-being of Future Generations (Wales) Act 2015
WG	Welsh Government
WHO	World Health Organisation