

ACCOMPANYING DOCUMENTS

Explanatory Notes and an Explanatory Memorandum are printed separately.

Environment (Air Quality and Soundscapes) (Wales) Bill

[AS INTRODUCED]

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Environment (Air Quality and Soundscapes) (Wales) Bill

[AS INTRODUCED]

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

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

5 **PART 1**

AIR QUALITY

CHAPTER 1

NATIONAL TARGETS

1 **1 Air quality targets: general**

- 10 (1) The Welsh Ministers may by regulations set long-term targets in respect of any matter relating to air quality in Wales.
- (2) A target set under this section must—
- 15 (a) specify a standard to be achieved, which must be capable of being objectively measured, and
- (b) specify a date by which the standard is to be achieved.
- (3) Regulations under this section may make provision about how the matter in respect of which a target is set is to be measured.
- (4) A target is a “long-term target” if the specified date is at least 10 years after the date on which the target is set.
- 20 (5) A target under this section is set when the regulations setting it come into force.
- (6) In this Chapter, the “specified standard” and “specified date”, in relation to a target set under this section, mean the standard and date specified under subsection (2).

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

- 25 (1) The Welsh Ministers must by regulations set at least one target (a “PM_{2.5} air quality target”) in respect of the annual mean level of PM_{2.5} in ambient air in Wales.
- (2) A PM_{2.5} air quality target may be a long-term target but need not be so.
- (3) In this section, PM_{2.5} means particulate matter with an aerodynamic diameter not exceeding 2.5 micrometres.
- (4) Regulations setting a PM_{2.5} air quality target may make provision defining “ambient air”.

- (5) Section 1(2) to (6) applies to PM_{2.5} air quality targets and to regulations under this section as it applies to targets set under section 1 and to regulations under that section.
- (6) In this Chapter, a “PM_{2.5} air quality target” means a target set under this section.

3 Target-setting process

- 5 (1) Before making regulations under section 1 or 2, the Welsh Ministers must –
 - (a) seek advice from persons they consider to be independent and to have relevant expertise, and
 - (b) have regard to scientific knowledge on air pollution.
- 10 (2) Before making regulations under section 1 or 2 which set or amend a target the Welsh Ministers must be satisfied that the target or amended target can be met.
- (3) The Welsh Ministers may not make regulations under section 1 or 2 which revoke or lower a target (the “existing target”) unless they are satisfied that –
 - 15 (a) meeting the existing target would have no significant benefit compared with not meeting it or with meeting a lower target, or
 - (b) because of changes in circumstances since the existing target was set or last amended the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits.
- 20 (4) Before making regulations under section 1 or 2 which revoke or lower a target, the Welsh Ministers must lay before Senedd Cymru, and publish, a statement explaining why the Welsh Ministers are satisfied as mentioned in subsection (3).
- (5) Regulations lower a target if, to any extent, they –
 - (a) replace the specified standard with a lower standard, or
 - (b) replace the specified date with a later date.
- 25 (6) Regulations under section 2 may not revoke a PM_{2.5} air quality target (but may amend it in accordance with this section).
- (7) For the purposes of this Chapter, a target is met if the specified standard is achieved by the specified date.
- 30 (8) The Welsh Ministers must lay a draft of a statutory instrument containing regulations setting a PM_{2.5} air quality target before Senedd Cymru before the end of the period of 3 years beginning with the date on which this Act receives Royal Assent.

4 Effect of targets

- (1) The Welsh Ministers must ensure that –
 - (a) targets set under section 1 are met, and
 - (b) PM_{2.5} air quality targets are met.

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

5 Reporting on targets

- 5 (1) Regulations under section 1 or 2 must specify a reporting date for any target set under that section.
- (2) On or before the reporting date, the Welsh Ministers must lay before Senedd Cymru, and publish, a statement containing the required information about the target.
- 10 (3) The required information about a target is (as appropriate) –
- (a) that the target has been met,
 - (b) that the target has not been met, or
 - (c) that the Welsh Ministers are not yet able to determine whether the target has been met, the reasons for that and the steps the Welsh Ministers intend to take in order to determine whether the target has been met.
- 15 (4) Where the Welsh Ministers make a statement that a target has not been met, the Welsh Ministers must, before the end of 12 months beginning with the date on which the statement is laid, lay before Senedd Cymru, and publish, a report.
- (5) The report must –
- (a) explain why the target has not been met, and
 - 20 (b) set out the steps the Welsh Ministers have taken, or intend to take, to ensure the specified standard is achieved as soon as reasonably practicable.
- (6) Where the Welsh Ministers make a statement that they are not yet able to determine whether a target has been met the Welsh Ministers must, before the end of 6 months beginning with the date on which the statement is laid, lay before Senedd Cymru, and
- 25 publish, a further statement containing the required information.
- (7) Subsections (3) to (6) apply to further statements under subsection (6) as they apply to a statement under subsection (2).

6 Review of targets

- 30 (1) The Welsh Ministers must review targets under sections 1 and 2 in accordance with this section.
- (2) In carrying out a review, the Welsh Ministers must –
- (a) seek advice from persons they consider to be independent and to have relevant expertise, and
 - (b) have regard to scientific knowledge about air pollution.
- 35 (3) Having carried out a review, the Welsh Ministers must lay before Senedd Cymru, and publish, a statement about the steps, if any, they intend to take under section 1 or 2 in relation to each target in consequence of the review.
- (4) Where a statement provides that the Welsh Ministers intend to take no steps under sections 1 or 2 in relation to a target, the statement must include the reasons for that decision.

- (5) The first review must be completed before the end of 5 years beginning with the day on which the first target is set (whether under section 1 or 2).
- (6) Subsequent reviews must be completed before the end of 5 years beginning with the day on which the previous review was completed.
- 5 (7) A review is completed when the Welsh Ministers have laid the statement before Senedd Cymru and published it.

7 Monitoring progress towards meeting targets

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

CHAPTER 2

OTHER PROVISION

Promoting awareness

15 **8 Promoting awareness about air pollution**

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

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

National air quality strategy

20 **9 Power to change review period for strategy**

- (1) In section 80 of the Environment Act 1995 (c. 25) (national air quality strategy), after subsection (7) insert –

25 “(8) The Welsh Ministers may by regulations amend this section for the purpose of changing the period within which they must review the strategy.”

- (2) In section 87 of that Act (regulations for the purposes of Part 4), after subsection (9) insert –

“(9A) A statutory instrument containing regulations under section 80(8) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru.”

30 **10 Consultation on review of strategy**

After section 80(8) of the Environment Act 1995 (c. 25) (as inserted by section 9) insert –

“(9) Subsections (6) and (7) do not apply in relation to the Welsh Ministers.

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

(a) the Natural Resources Body for Wales;

- (b) every local authority in Wales;
- (c) 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.”

11 Duty to have regard to strategy

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

“81B Functions of relevant Welsh public authorities etc.

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

- (2) In section 87 of that Act (regulations for the purposes of Part 4), in subsection (2) –

- (a) in paragraph (c), after “relevant public authorities” insert “, relevant Welsh public authorities”;
- (b) in paragraph (j), after “relevant public authorities,” insert “relevant Welsh public authorities,”;
- (c) in paragraph (l), after “relevant public authorities” insert “, relevant Welsh public authorities”;
- (d) in paragraph (m), after “a relevant public authority” insert “, a relevant Welsh public authority”.

- (3) In section 88 of that Act (guidance for the purposes of Part 4) –

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

(b) after subsection (3) insert—

“(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.

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

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

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

Air quality regulations

12 Consultation on air quality regulations

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

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

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

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

Local air quality management

13 Local authority air quality reviews

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

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

(3) After subsection (1) insert—

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

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

14 Action plans in relation to air quality management areas

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

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

- (1) This section applies in relation to a local authority in Wales.
- (2) A local authority must, for the purpose of securing that air quality standards and objectives are achieved in an air quality management area designated by the authority –
- (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.”

- (2) In section 84 of that Act—
- (a) in subsection (1A), omit “or Wales”;
 - (b) in the heading, omit “and Welsh”.
- (3) In section 91 of that Act, in the definition of “action plan” in subsection (1), after paragraph (a) insert—
- “(aa) in relation to Wales, in accordance with section 83B;”.

15 Welsh Ministers’ powers of direction

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

- (a) omit the “or” after paragraph (c);
- (b) after paragraph (d) insert—
 - “(e) that a local authority in Wales has failed to carry out a measure specified in an action plan by the date specified in the plan in relation to that measure, or
 - (f) that an air quality standard or objective has not been achieved, within a designated area in Wales, by the date specified in the action plan for the area as the date by which the standard or objective is expected to be achieved,”.

Smoke control

16 Regulation of smoke and fuel in smoke control areas

- (1) The Clean Air Act 1993 (c. 11) is amended as follows.
- (2) After section 19D (interpretation of terms for the purposes of section 19B) insert—

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

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

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

19F Acquisition and sale of unauthorised fuel: Wales

- (1) Any person who—
 - (a) acquires any solid fuel for use in a building to which a smoke control order in Wales applies;
 - (b) acquires any solid fuel for use in a fireplace to which a smoke control order in Wales applies;
 - (c) acquires any solid fuel for use in any fixed boiler or industrial plant to which a smoke control order in Wales applies; or

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

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

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

is guilty of an offence.

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

(3) Subsection (1)(b) does not apply in relation to a fireplace that is subject to an exemption under section 19G at the time of the acquisition.

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

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

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

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

(i) a fireplace that was, at the time of the delivery, subject to an exemption under section 19G, 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.

(7) 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.

(8) 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.

19G Exemptions relating to particular fireplaces in Wales

(1) For the purposes of the application of this Part to Wales, the Welsh Ministers may exempt any class of fireplace from the provisions of Schedule 1A 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 Welsh Ministers consider appropriate.

(3) The Welsh Ministers must—

- (a) publish a list of those classes of fireplace that are exempt under subsection (1) including any 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.

19H Exemptions relating to particular areas in Wales

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

17 Guidance for local authorities in relation to smoke control areas

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

“28B Guidance for local authorities in Wales

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

18 Further provision relating to smoke control

Schedule 1 makes further provision relating to smoke control.

Vehicle emissions

19 Trunk road charging schemes

- (1) The Transport Act 2000 (c. 38) is amended as follows.
- (2) In section 167 (trunk road charging schemes)—
 - (a) in subsection (2), in the opening words, after “road charging scheme” insert “under subsection (1)(a)”;

(b) after subsection (2) insert—

“(3) A trunk road charging scheme under subsection (1)(b) may only be made in respect of a road if—

(a) the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length,

(b) the scheme is made for the purpose of reducing or limiting air pollution in the vicinity of the road (which may comprise or include a length of road of the kind described in paragraph (a)),

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

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

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

20 Further provision relating to trunk road charging schemes

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

21 Stationary idling offence: fixed penalty

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

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

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

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

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

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

(b) after subsection (2A) insert—

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

- (3) In Schedule 11 (air quality: supplemental provision), in paragraph 5 (fixed penalty offences), in sub-paragraph (6) –
- (a) in the definition of “fixed penalty” –
 - (i) the words from “a penalty of such amount” to the end become paragraph (a);
 - (ii) at the end of paragraph (a) insert “, or
 - (b) a penalty of such amount falling within a range prescribed in regulations as is specified in a fixed penalty notice;”;
 - (b) in the definition of “fixed penalty notice”, at the end insert “or an amount falling within a range prescribed in regulations”.

PART 2

SOUNDSCAPES

National soundscapes strategy

22 National strategy on soundscapes

- (1) The Welsh Ministers must prepare and publish a strategy containing their policies with respect to the assessment and management of soundscapes in Wales.
- (2) The strategy must include policies for assessing and reducing levels of noise pollution.
- (3) The Welsh Ministers must keep their policies with respect to soundscapes under review.
- (4) The Welsh Ministers may modify the strategy from time to time.
- (5) The Welsh Ministers must review the strategy and, if appropriate, modify it –
 - (a) within 5 years of the publication of the strategy, and
 - (b) within each period of 5 years beginning with the day on which the Welsh Ministers completed their most recent review under this subsection.
- (6) The Welsh Ministers must, in preparing or reviewing the strategy –
 - (a) have regard to –
 - (i) scientific knowledge relevant to soundscapes, and
 - (ii) the most recent strategic noise maps adopted under regulation 23 of the Environmental Noise (Wales) Regulations 2006 (S.I. 2006/2629);
 - (b) consult –
 - (i) the Natural Resources Body for Wales,
 - (ii) every local authority in Wales,
 - (iii) the Public Health Wales National Health Service Trust,
 - (iv) every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c. 42), and
 - (v) the public.

- (7) The Welsh Ministers may by regulations amend this section for the purpose of changing the period within which they must review the strategy.
- (8) If the Welsh Ministers publish a strategy that meets the requirements of subsections (1) and (2) before this section comes into force, that strategy is to be treated as the strategy prepared and published under subsection (1) (and subsection (6) does not apply to the preparation of the strategy).
- (9) In this section and section 23, “local authority” means a county council or county borough council.

23 Duty to have regard to national strategy on soundscapes

- (1) The following persons must have regard to the policies in the strategy published under section 22 when exercising any function of a public nature that could affect soundscapes in Wales –
- (a) local authorities in Wales;
 - (b) relevant Welsh public authorities.
- (2) In this section, “relevant Welsh public authority” means a person designated in accordance with subsection (3) as a relevant Welsh public authority.
- (3) The Welsh Ministers may by regulations designate a person as a relevant Welsh public authority if (and only if) that person is a “devolved Welsh authority” within the meaning of section 157A(1)(a) of the Government of Wales Act 2006 (c. 32).
- (4) Before making regulations under subsection (3), the Welsh Ministers must consult –
- (a) the person that is proposed to be designated, and
 - (b) such other persons as the Welsh Ministers consider appropriate.

Strategic noise maps and noise action plans

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

- (1) The Welsh Ministers may by regulations amend regulation 7 of the Environmental Noise (Wales) Regulations 2006 (S.I. 2006/2629) (duty of the Welsh Ministers to make, review and revise strategic noise maps) to change the intervals for the time being specified by paragraph (2) of that regulation as the intervals at which strategic noise maps must be made and adopted.
- (2) The Welsh Ministers may by regulations amend regulation 17 of the Environmental Noise (Wales) Regulations 2006 (duty of the Welsh Ministers to draw up, review and revise action plans) to change the period for the time being specified by paragraph (3)(b) of that regulation as the period within which reviews of an action plan must be carried out.

PART 3
GENERAL

25 Power to make consequential, transitional etc. provision

- 5 (1) If the Welsh Ministers consider it necessary or appropriate for the purposes of, in consequence of, or for giving full effect to any provision of this Act, they may by regulations make –
- (a) supplementary, incidental or consequential provision;
 - (b) transitional or saving provision.
- 10 (2) Regulations under subsection (1) may modify any enactment (whenever enacted or made, and including this Act).

26 Regulations

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) A power to make regulations under this Act includes –
- (a) power to make different provision for different purposes;
 - 15 (b) power to make –
 - (i) supplementary, incidental or consequential provision;
 - (ii) transitional or saving provision.
- (3) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru.
- 20 (4) Subsection (3) applies to a statutory instrument containing regulations under any of the following provisions –
- (a) section 1;
 - (b) section 2;
 - (c) section 22(7);
 - 25 (d) section 23(3).
- (5) Subsection (3) also applies to a statutory instrument containing regulations under section 25 that modify any provision of primary legislation.
- (6) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of Senedd Cymru.
- 30 (7) In this section, “primary legislation” means any of the following –
- (a) an Act of Senedd Cymru;
 - (b) an Assembly Measure;
 - (c) an Act of the Parliament of the United Kingdom;
 - (d) any retained direct EU legislation.

27 Coming into force

- (1) This Part comes into force on the day after the day on which this Act receives Royal Assent.
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act receives Royal Assent—
- 5 (a) sections 1 to 6;
- (b) sections 8 to 11;
- (c) section 12;
- (d) sections 19 and 20 and Schedule 2;
- (e) section 21;
- 10 (f) sections 22 and 23;
- (g) section 24.
- (3) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (4) An order under subsection (3)—
- 15 (a) may make transitional or saving provision;
- (b) may appoint different days for different purposes.

28 Short title

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

SCHEDULE 1
(introduced by section 18)

SMOKE CONTROL

PART 1

FURTHER PROVISION IN RELATION TO FINANCIAL PENALTIES

5

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

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

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

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

10

““relevant national authority” means –

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

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

15

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

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

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

20

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

(c) after sub-paragraph (4) insert –

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

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

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

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

30

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

(d) after sub-paragraph (6) insert –

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

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

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

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

Clean Air Act 1993 (c. 11)

- 8 The Clean Air Act 1993 (c. 11) is amended as follows.
- 5 9 In section 18 (declaration of smoke control area by local authority) –
- (a) in subsection (2)(b), for the words from “section 20” to “in England)” substitute “Schedule 1A (penalty for emission of smoke in England or in Wales)”;
 - (b) in subsection (2A), after “England” insert “or in Wales (as the case may be)”.
- 10 Sections 20 to 23 (including the italic headings above sections 20 and 23) are repealed.
- 10 11 In section 24 (power of local authority to require adaptation of fireplaces in private dwellings), in subsection (1), for the words from “contraventions” to the end substitute “the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales)”.
- 12 In section 26 (power of local authority to make grants towards adaptations to fireplaces in certain buildings), in subsection (1), for the words from “contraventions to “England)” substitute “the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales)”.
- 15
- 13 In section 27 (references to adaptations for avoiding contraventions of section 20 or Schedule 1A) –
- (a) in the heading, omit “section 20 or”;
 - (b) in subsection (1) –
 - (i) in the opening words, for the words from “contraventions” to “England)” substitute “the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in England or Wales)”;
 - (ii) in the words after paragraph (e), omit “contraventions of section 20 or”;
 - (c) in subsection (3), omit “contraventions of section 20 of this Act or”.
- 20
- 14 In section 29 (interpretation of Part 3) –
- (a) in the definition of “authorised fuel”, for “section 20” substitute “section 19F”;
 - (b) after the definition of “smoke control order in England” insert –
 - ““smoke control order in Wales” means a smoke control order made by a local authority in Wales.”
- 30
- 15 In section 45 (exemption for purposes of investigations and research) –
- (a) in subsection (1)(a), omit “, 20 (smoke in smoke control area)”;
 - (b) in subsection (1)(e), for “section 23” substitute “section 19F”.
- 35 16 In section 51 (duty to notify occupiers of offences) –
- (a) in subsection (1)(a), for “, 2 or 20” substitute “or 2”;
 - (b) in subsection (3), for “, 2 or 20” substitute “or 2”.

- 17 In section 63 (regulations and orders) –
- (a) in subsection (2), after “made under this Act” insert “by the Secretary of State”;
 - (b) after subsection (2) insert –
 - 5 “(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.”
 - 10 (c) in subsection (3), omit “, 21 or 22”.
- 18 In Schedule 1 (coming into operation of smoke control orders) –
- (a) in paragraph 5, for the words from “section 20” to “in England)” substitute “Schedule 1A (penalty for emission of smoke in England or Wales)”;
 - (b) after paragraph 6A insert –
 - 15 “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
 - (b) provide the date on which the order is to come, or came, into operation.”
- 20 19 In Schedule 2 (smoke control orders: expenditure on old private dwellings) –
- (a) in paragraph 1(1), after “local authority” insert “in Wales”;
 - (b) in the opening words of paragraph 1(2), for “contraventions of section 20 (prohibitions of smoke emissions in smoke control area)” substitute “the imposition of a financial penalty under Schedule 1A (penalty for emission of smoke in smoke control area)”;
 - 25 (c) in paragraph 4(1)(b), for “contraventions of section 20” substitute “the imposition of a financial penalty under Schedule 1A”.

Environment Act 2021 (c. 30)

- 20 In the Environment Act 2021 –
- 30 (a) in section 147(4) (commencement powers of Welsh Ministers), omit paragraph (f);
 - (b) Part 2 of Schedule 12 (principal amendments to the Clean Air Act 1993: Wales) is repealed.

SCHEDULE 2

(introduced by section 20)

TRUNK ROAD CHARGING SCHEMES: APPLICATION OF PROCEEDS

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

“Application of proceeds by Welsh Ministers

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

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

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

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

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

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

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

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

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

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

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

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

(b) after subsection (6) insert –

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

(a) section 182(5), or

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

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

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

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