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Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet
dros Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for
Climate Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: PO/HIDCC/0245/25

Llŷr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

2 June 2025

Dear Llŷr,

Following the introduction of the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill into the Senedd on 2 June, please find attached a copy of the statements of policy intent.

I would also like to highlight the Integrated Impact Assessment, a report on the "Review and Cost Benefit Analysis of Welsh Government Environmental Governance, Principles and Biodiversity Targets Bill" by The Young Foundation and an additional annex for Cost Benefit Analysis can be found on the [Welsh Government - Environment \(Principles, Governance and Biodiversity Targets\) \(Wales\) Bill – webpage](#).

These documents are provided to support the Committee's scrutiny of the Bill.

I look forward to providing evidence to the Committee in due course.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee.

Your sincerely,

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Llywodraeth Cymru
Welsh Government

Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill

Statement of Policy Intent for secondary legislation etc

Introduction

This paper summarises the Welsh Ministers' powers for making secondary legislation outlined in the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill (the Bill), as introduced to the Senedd Cymru on 2 June 2025.

The Statement has been prepared to assist committees during the scrutiny of the Bill. It should be read in conjunction with the Bill and the Explanatory Memorandum and Explanatory Notes which accompany it. Details of the Senedd procedure associated with each of these powers are set out in chapter 5 of the Explanatory Memorandum and are not repeated in this document.

This document is also intended to provide stakeholders with an initial opportunity to provide feedback on the intended use of these powers so as to ensure robust and effective policy. The Welsh Ministers have considered the use of powers in the Bill as set out below and are satisfied that they are necessary and justified.

In developing subordinate legislation, the Welsh Ministers will work closely with stakeholders to ensure the provisions are relevant, valid and proportionate.

Overview of the Bill

The Bill contains four Parts and three Schedules.

Part 1 – Environmental objective and principles

Part 2 – The Office of Environmental Governance Wales

Part 3 – Biodiversity Targets etc

Part 4 – General

Schedule 1 - The Office of Environmental Governance Wales

Schedule 2 - The Office of Environmental Governance Wales: strategy

Schedule 3 - Staff transfer schemes

Schedule 4 – Consequential amendments

Part 2 – The Office of Environmental Governance Wales

Section	Form	Proposal	Procedure
Section 29 (4) - Meaning of “environmental law”	Regulations	The Welsh Ministers may, by regulations, provide that a devolved provision specified in the regulations is, or is not, within the definition of “environmental law”	Senedd Approval Procedure

Description of powers

The Welsh Ministers may, by regulations, provide that a devolved provision specified in the regulations is, or is not, within the definition of “environmental law”, as it applies to Part 2 of the Bill. This power is necessary to ensure the definition of environmental law can be future proofed and updated with the latest developments in respect of international and domestic policy.

Policy purpose and intent

Provision is made within the Bill to set out the meaning of “environmental law”. This is a significant definition as it effectively sets the scope of the OEGW’s functions which are defined by reference to public authorities compliance with environmental law, as well as whether environmental law has been made, implemented and applied effectively.

The definition clarifies that environmental law only relates to “devolved provision”. This sets out the parameters of the OEGW’s oversight to any legislation that has, or could be, made by Senedd Cymru. This has been framed to capture any future changes. It is the converse of section 46 of the Environment Act 2021, which for the purposes of the OEP, excludes devolved legislative provision from the scope of the EA 2021 definition of environmental law. In this respect, there is intended to be very little legislative overlap with the functions of the OEP, given the respective definitions of environmental law to include or exclude devolved provisions

Further, the definition clarifies that environmental law relates to any devolved provision which “wholly or mainly relates to environmental protection”. This is aimed at specific provisions/functions within an enactment, rather than ‘an enactment itself. Some provisions of an Act could qualify as environmental law (ie wholly or mainly relating to environmental protection) while other provisions in the same Act may not fall within this scope. By way of example, for instance, the Forestry Act 1967 includes specific provisions aimed at environmental protection. Consequently, these provisions would be categorised under the definition of environmental law as defined within this Bill. However, the same Act also includes provisions that wouldn't qualify as environmental law. Specifically, Section 1(3A) imposes a duty on the relevant forestry authority to strive for a reasonable balance between “the development of afforestation, the management of forests and the production and supply of timber” and “the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest”. The latter part of this duty relates to the conservation of the natural environment, thereby falling within the scope of environmental law.

However, other elements within the same Act do not fall under this definition. For instance, section 1(2), which requires the appropriate forestry authority to be “charged with the general duty of promoting the interests of forestry, the development of afforestation and the production and supply of timber and other forest products...” Since this duty is concerned with promoting the forestry industry, it is not considered environmental law.

In practice, the OEGW will assess, on a case-by-case basis, whether a legislative provision falls under the definition when determining its legal authority to act in that area, and therefore, whether it has the scope to exercise its functions in respect of that particular legislative provision. Generally, it is anticipated that the conclusion will be evident and agreed upon by all parties involved. However, in instances of uncertainty or disagreement, it may be necessary for the courts to ultimately decide whether a specific provision meets the definition of environmental law.

In cases where there is ambiguity or developments in respect of international and domestic policy, it may be necessary to add further clarity to the definition of “environmental law” in terms of what is and isn't considered environmental law, given it's significance in shaping the scope of the OEGW's oversight. In this respect, it is desirable to include a regulation making power for Welsh Ministers to be able to resolve this ambiguity, or reflect these developments, as the need may arise.

This regulation making power, if exercised, would be considered to substantially affect provisions of the Bill by adding, amending or removing provisions which can be considered ‘environmental law’ for the purposes of the Act, and which has a substantial bearing on the scope of the Office of Environmental Governance's oversight powers. On this basis, the Senedd approval is considered appropriate as it allows for greater Senedd scrutiny over any proposed change to the OEGWs scope.

Part 3 – Biodiversity Targets etc

Statutory Biodiversity Targets

Section	Form	Proposal	Procedure
Section 33(1) (Biodiversity targets): New section 6B(1) of the Environment (Wales) Act 2016	Regulations	The Welsh Ministers may, by regulations, set targets in respect of any matter relating to biodiversity in Wales.	Senedd Approval Procedure

Description of powers

Section 33(1) and sections 35 to 37 of the Bill insert new sections 6A - 6I into the Environment (Wales) Act 2016, and amend section 6 of that Act, to introduce a statutory framework for setting, monitoring and reporting on biodiversity targets. While the new section 6B(1) of the Environment (Wales) Act 2016 will contain the relevant regulation making power, it may assist the committee to have further information about the wider biodiversity target setting framework as it imposes certain duties and restrictions as to how the Welsh Ministers may or must exercise their target setting power.

Section 6B(1) provides the Welsh Ministers with a power to set targets through regulations in respect of any matter relating to biodiversity in Wales. A target set under this section must specify a standard and a date by which the standard is to be achieved. A target may only be set if the Welsh Ministers are satisfied that meeting it would contribute to halting and reversing the decline in biodiversity, in particular through one or more of the following aspects: increasing the abundance of native species, enhancing the resilience of ecosystems, and increasing genetic diversity.

Section 6C(1) and (5) of the Environment (Wales) Act 2016 requires the Welsh Ministers to make regulations setting at least one target in respect of at least one matter within each priority area and draft regulations setting such targets must be laid before the Senedd within three years of the date on which the Bill receives Royal Assent. These priority areas are: reducing the risk of the extinction of native species; the effective management of ecosystems; reducing pollution; and improving the quality of evidence to inform decisions relating to biodiversity, access to that evidence, and its use and application.

Section 6D of the Environment (Wales) Act 2016 contains a series of actions which the Welsh Ministers must take prior to making regulations, such as seeking advice from persons they consider to be independent and have relevant expertise, publish a summary of such advice, and to apply the principles of sustainable management of natural resources.

Section 6E of the Environment (Wales) Act 2016 places a duty on the Welsh Ministers to ensure that the targets set under section 6B are met.

Section 6G(1) and (2) of the Environment (Wales) Act 2016 allows the Welsh Ministers to review any target set under section 6B from time to time but places a duty on the Welsh Ministers to review a target if the Welsh Ministers believe that a target may not be met or is no longer appropriate.

Section 6H of the Environment (Wales) Act 2016 imposes a restriction on the Welsh Ministers' power under section 6B to make further regulations that lower or revoke a target already set under section 6B. This section provides that the Welsh Ministers may only revoke or lower a target in limited circumstances, such as if there is a change in evidence or if the target will no longer contribute to halting or reversing the decline in biodiversity.

Section 6I of the Environment (Wales) Act 2016 places duties on the Welsh Ministers to publish statements about whether the targets set under section 6B have been achieved by their specified dates and, if not, why and what they plan to do to achieve them.

Sections 35 and 36 of the Bill amend section 6 of the Environment (Wales) Act 2016, so that the Welsh Ministers' planning and reporting duties under subsections (6) and (7) of that section, to include setting out how the Welsh Ministers intend to meet any targets set under section 6B, how those targets, if met, will contribute to halting and reversing the decline in biodiversity, as well as reporting on what progress has been made to meet any targets and if they consider those targets are likely to be met.

Section 37 of the Bill inserts a new section 6A into the Environment (Wales) Act 2016, which requires the Welsh Ministers to evaluate the impact and effectiveness of the proposals included in their plans under section 6(6) and (6A) of that Act, which would include evaluating any proposals in the section 6(6) plan as to how the Welsh Ministers intend to achieve any targets set under section 6B.

Policy purpose and intent

A new statutory cycle for biodiversity target setting, monitoring, reporting, and evaluation will help deliver significant, long-term environmental improvements in a way that is transparent and accountable. A new framework for setting legally binding targets, along with an initial commitment to set at least one target in respect of a matter within each priority area listed, will be integral to this cycle. By addressing the drivers of biodiversity loss, this framework will deliver significant benefits for the environment and people, resulting in economic benefits.

Sections 6C(1), (2) and (5) require the Welsh Ministers to lay draft regulations setting at least one target in respect of each priority area listed before the Senedd within three years of Royal Assent of the Bill. These areas include reducing the risk of species extinction, effective ecosystem management, reducing pollution, and improving the quality of evidence to inform decisions relating to biodiversity, access to that evidence, and its use and application. These priority areas work together to cover the breadth of the Global Biodiversity Framework and ensure a range of drivers of biodiversity loss are addressed with the initial targets. This provides certainty for all stakeholders that feasible, ambitious, and affordable targets will be set within this time period, while providing sufficient time for several steps that need to be undertaken before such a target can be set. These steps include determining the scope of targets, drawing on expert opinion, analysing target options to underpin feasible, ambitious, and affordable ranges of target levels and dates, engaging in public consultation on the target proposals, and drafting and introducing the target regulations, including the detailed requirements for how compliance must be assessed.

The policy intention is to ensure targets are set transparently and with full consultation. The process will be informed by various sources of evidence, including scientific data and models, historical datasets, long-term future projections, and assessments of what is feasible from a socio-economic perspective. It will be an iterative process relying on support, expertise, and scrutiny from others.

To support this, work is happening in parallel to the Bill to inform the development of targets. A robust evidence base is required to ensure we make the right choices to halt and reverse the decline in biodiversity, with a primary focus on taking an ecosystem approach to our interventions, supporting action to tackle the nature emergency, and growing our green economy. The evidence will inform options for the Welsh Ministers and enable them to make timely decisions on future target proposals, including target levels and the year by which they would come into force (taking into consideration implications of future budget requirements).

The Bill places requirements on the Welsh Ministers to seek advice from independent experts with relevant expertise before making regulations that set targets. We are currently working with the Biodiversity Targets Advisory Panel, set up by the Welsh Ministers to help develop targets set under the Bill, as well as some existing stakeholder groups to fulfil these requirements. Any regulations made under section 6B(1) will be subject to full consultation and impact assessments to ensure stakeholders' views, including

those with protected characteristics who would be most affected by biodiversity loss, are considered in the development of the regulations. These regulations are also subject to the Senedd approval procedure.

Designation of public authorities

Section	Form	Proposal	Procedure
Section 33(1) (Biodiversity targets): New section 6F(1) of the Environment (Wales) Act 2016)	Regulations	The Welsh Ministers may, by regulations, designate a public authority within section 6(11) in relation to a target set in regulations made under section 6B.	Senedd Approval Procedure

Description of powers

Section 33(1) of the Bill will insert a new section 6F into the Environment (Wales) Act 2016. Section 6F(1) grants the Welsh Ministers a power to designate, by regulations, public authorities within section 6(11) of the Environment (Wales) Act 2016 as subject to the new duty in section 6(2A) of that Act, inserted by section 34(1) of the Bill, to take action to contribute towards the achievement of the target set under section 6B for which they have been designated. Section 6F(2) requires the Welsh Ministers to consult with relevant public authorities, and other persons considered relevant, prior to making the regulations.

Section 6(11) of the Environment (Wales) Act 2016, inserted by section 34(4) of the Bill, sets out which public authorities may be designated in regulations under section 6F(1) and these include devolved Welsh authorities and reserved authorities for which Minister of the Crown consent is not required before a Senedd Bill can impose such a duty.

Policy purpose and intent

The purpose of this power is to support the Welsh Ministers in delivering and achieving the targets. Due to the ambitious nature of these targets, achieving them will require a whole-of-Wales approach across government and society. As public authorities manage considerable amounts of the Welsh landscape and enforce local planning procedures and regulations, their contributions will be instrumental in achieving the targets.

Section 6F(2) requires Welsh Ministers to consult with the proposed public authority, and any other parties that the Welsh Ministers consider are appropriate, prior to designating that public authority within regulations. This is to ensure that the Welsh Ministers are aware of the burdens being placed upon the public authorities as well as ensuring that the public authorities have the opportunity to highlight any concerns with the duty.

The public authorities that can be considered for designation includes devolved Welsh authorities, such as local and national park authorities in Wales and county or county borough councils. The OEGW will not be a public authority for the purposes of section 6 of the Environment (Wales) Act 2016 so will be exempt from designation under this power. This is because the OEGW will be the public authority with a duty to, among other things, oversee compliance with environmental law in Wales by other public authorities and this would include whether designated public authorities have complied with their duty to take action to contribute towards achieving a target and the OEGW cannot regulate themselves.

The policy intention is that public authorities will be designated based on their ability to contribute to individual targets. For example, where a target involves land that a specific public authority or class of public authorities has management responsibilities for, then they will be considered for designation for that target. The process will be informed by various sources of evidence, including scientific data and inputs from the Biodiversity Targets Advisory Panel and stakeholders, and assessments of what is feasible from a socio-economic perspective. It will be an iterative process relying on support, expertise, and scrutiny from others.

As the work being undertaken to inform the target regulations progresses, there will be a clearer picture of which public authorities may be designated. We are working with officials from Natural Resources Wales and local authorities to gather evidence and inform our target modelling. This collaborative process is to ensure that the public authorities are informed on the targets' progression and are able to identify areas in which they may contribute early in the target development cycle.

Schedule 1 - The Office of Environmental Governance Wales

Members

Section	Form	Proposal	Procedure
Schedule 1 – Membership – Members – paragraph 2(3)	Regulations	The Welsh Ministers may, by regulations, amend sub-paragraph (1)(c) to substitute a different number for either or both of the numbers for the time being specified in that sub-paragraph	Senedd Approval Procedure

Description of powers

A power to amend sub-paragraph (1)(c) which species the number of other persons to be appointed as members to the OEGW to substitute a different number for either or both of the numbers for the time being specified in that sub-paragraph. This power may be considered appropriate to enable Ministers, with the approval of the Senedd, to increase or reduce members of the body as appropriate.

Policy Purpose and intent

The Bill specifies the members of the OEGW, which are to consist of

- a. A chairperson appointed by the Welsh Ministers
- b. A deputy chairperson appointed by the Welsh Ministers
- c. At least 3 and no more than 5 other persons appointed by the Welsh Ministers
- d. The chief executive

The intent of this composition is to allow for a diverse and balanced leadership structure. However, a body with the role and scope of the OEGW is unprecedented in Wales and it is possible that further experience or changes to the scope or focus of the body could lead Ministers to conclude that it is necessary to amend the number of ordinary members (referred to in the provisions as 'other persons') once the OEGW has started to exercise its functions. In this way, this power is considered necessary to ensure the OEGW can be future proofed and adapted to accommodate any future changes to its scope or remit arising from wider legislation or government decision making.

This regulation making power, if exercised, could have a significant impact by increasing or reducing the number of ordinary members which comprise the OEGW. On this basis, the Senedd approval is considered appropriate as it allows for greater Senedd scrutiny over any proposed change to the OEGW's membership.

Member disqualification

Section	Form	Proposal	Procedure
Schedule 1 – Membership – Disqualification – paragraph 3 (1)(i)	Regulations	A regulating making power to enable Welsh Ministers to disqualify, by specifying in regulations, holder of an office, or a member or member of staff of a body, from being a member of the OEGW	Senedd Approval Procedure

Description of powers

This power enables Welsh Ministers to, by regulation, disqualify a holder of an office, or a member or member of staff of a body from being a member of the OEGW.

Policy Purpose and intent

Provision is made within the Bill to disqualify individuals from being members of the OEGW if they hold specific positions, such as members of the UK Parliament, County Councils, National Park Authorities, Natural Resources Wales, the Welsh Government, Ministers of the Crown, Scottish Government, Northern Ireland Ministers, or specified bodies, including the OEGW's own staff. To manage conflicts of interest effectively, members of certain organisations are deemed to have an automatic and unavoidable conflict with a role in the OEGW, which cannot be addressed by internal rules and procedures. This ensures that members of the OEGW can maintain their focus on the OEGW's objectives without conflicting obligations and whilst maintaining independence.

As part of this provision, Welsh Ministers may, by regulation, specify the holder of an office, or a member or member of staff of a body which, in their view, should not be a member of the OEGW on the basis of an automatic and unavoidable conflict of interest.

In effect, this future proofs the wider provision in respect of disqualifications and enables decisions to be taken around the propriety of preventing certain individuals becoming a member of the OEGW by virtue of a clear conflict of interest, once the evolution of the OEGW becomes clear. These regulations would be subject to the Senedd Approval procedure to allow for scrutiny of any decision by the WMs to amend this list of disqualifications.