

**Submission to the Legislation, Justice and Constitution Committee, Senedd Cymru
Scrutiny of the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill**

1. Absence of safeguards on the independence of the Office of Environmental Governance Wales (OEGW)

We consider this omission is of constitutional significance given the strategic role that the OEGW will play, effectively replicating the supranational oversight role of EU authorities in a domestic context. As such, we would welcome the Committee's scrutiny on this.

The Welsh Government recognises that the independence of the OEGW "is of paramount importance to its effective operation" (para 3.165, Explanatory Memorandum). However, there is no provision in the bill to reflect this, putting the body's independence at risk in both the short and long term.

- The EPGBT Bill should include a duty on Welsh Ministers to respect the OEGW's independence, like that in Para 17 of [Schedule 1](#) of the UK Environment Act 2021, which has been very helpful in safeguarding the independence of the OEP and framing its relationship with the UK Government.
- The EPGBT Bill could also be amended to clarify that Welsh Ministers have no power of direction in relation to the OEGW, like that set out in [Schedule 1](#) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.
- The EPGBT Bill provides no safeguards on the process for determining the resourcing of the OEGW. The UK Government committed to provide the Office for Environmental Protection (OEP) with a ringfenced five-year indicative budget and included a power in the UK Environment Act 2021 to enable the OEP to highlight any under-resourcing to the Westminster Parliament (paragraph 16, Schedule 1) through the publication of a 'sufficiency statement'. Similar safeguards should be considered for the OEGW.

2. Undermining access to environmental justice

There is no provision in the EPGBT Bill for people to make formal representations to the OEGW if they consider that an environmental law may have been broken, nor on how the OEGW would handle such representations. This is a major oversight and would represent a regression from the position that existed when the UK was a member of the EU. While we agree that the EPGBT Bill must allow the OEGW to develop its own systems and approaches, the ability for people to make representations to it on breaches of environmental law should be enshrined in legislation given its public importance.

We recommend that the EPGBT Bill should be amended to include the ability for people to make a representation to the OEGW if they believe that a public authority has failed to comply with environmental law. The bill should also set out the broad process that will be followed, for example to mirror the approach taken by the UK Government in [section 32](#) and [section 34](#) of the UK Environment Act 2021.

3. Section 18 – OEGW's review of compliance notices

The EPGBT Bill enables public authorities to ask the OEGW to undertake an internal review of a compliance notice. Section 18(5) requires decisions on notices to be made by a 'review committee', which would be able to confirm, withdraw or vary the compliance notice.

Para 10 of Schedule 1 of the EPGBT Bill specifies that the composition of the committee must include at least 2 people co-opted from a list maintained by Welsh Ministers. Placing the fate of compliance notices, which are designed to be the principal vehicle to bring about compliance with environmental law, in the hands of people from outside the OEGW would weaken its governance and enforcement authority. Experience from the other jurisdictions in the UK highlights that public authorities do not always agree with the findings of the relevant environmental oversight body, so the OEGW internal review process is likely to be used on a regular basis. These provisions should be rethought so that the OEGW retains control over its enforcement decisions. It would be possible to build independence and objectivity into the review process without requiring the OEGW to cede its enforcement authority.

4. Section 29(4) – meaning of environmental law

This section relates to the meaning of environmental law and gives Welsh Ministers the power to amend this by regulation, which the statement of intent explains is “to ensure the definition of environmental law can be future proofed and updated with the latest developments in respect of international and domestic policy”.

The UK Environment Act 2021 provides the Secretary of State with a similar power in [section 46\(5\)](#). However, section 46(6) of the UK Act also requires the Secretary of State to undertake consultation before making regulations, including with the OEP, which is important given the meaning of environmental law shapes its oversight remit.

The meaning of environmental law in section 29(4) of the EPGBT Bill will perform a similar role for the OEGW (the statement of intent notes that it “effectively sets the scope of the OEGW’s functions”). It is concerning, therefore, that no consultation requirement has been included in relation to the OEGW. This should be added.

5. Section 33(1) (Biodiversity targets): New section 6B(1) of the Environment (Wales) Act 2016

Section 6B(1) provides Welsh Ministers with a power to set targets through regulations in respect of any matter relating to biodiversity in Wales. This is very welcome. We will share submissions in relation to the policy content of Part 3 of the EPGBT Bill with the Climate Change, Environment and Infrastructure Committee but set out some points below on the level of detail that we consider ought to be placed on the face of the bill.

The explanatory memorandum notes that the legislation makes provision that “aims to respond effectively and with urgency to these fundamental [nature and climate] crises”. We welcome this intent but question whether the absence of timescales in the new target setting framework is commensurate with the Welsh Government’s aim.

Just as the Global Biodiversity Framework describes both 2030 targets and longer-term 2050 goals, the EPGBT Bill should ensure that Welsh Ministers are accountable for delivering legally binding interim and long-term targets, with at least one long-term and one short-term target required for each priority area. The bill is silent on the duration of targets and our current reading is that it would be possible to bring forward only short-term targets, for example.

Furthermore, the timescale set by section 6C(5) for Welsh Ministers to exercise the power in section 6B to set a target in respect of at least one matter within four specified priority areas does not reflect either the urgency needed to address the alarming declines in Welsh nature nor the calls from [Senedd Cymru](#) and [Audit Wales](#) for action to be at a pace that reflects the scale of the nature crisis.

This timeframe means that targets will not be required until 2029. Wales' first suite of biodiversity targets should be required within 12 months of the EPGBT Bill receiving Royal Assent. This timeframe was applied in the UK Environment Act 2021 and targets under that Act were published within 13 months. We consider that the Welsh Government should adopt a more ambitious statutory timeframe for publishing and adopting targets, particularly because work towards developing the targets is already underway.

We agree that biodiversity targets should be set via regulations, rather than on the face of the EPGBT Bill, provided those regulations are passed via the affirmative procedure, which we believe will be the case under [section 25\(3\)](#) of the Environment (Wales) Act 2016.

However, we consider there would be value in including an additional requirement in the EPGBT Bill for Welsh Ministers to set a target to reverse the decline in species abundance by 2035. This would follow the precedent set by the UK Environment Act 2021, which required the Secretary of State to set a target, through regulations, to halt the loss of species abundance by 2030. This would act as a 'North Star', capturing and embedding the ambition and commitment of the current Welsh Ministers and Senedd to respond to the nature emergency and galvanising action from the outset. Its value is heightened by the fact that implementation of all of the duties passed via this bill will be in the next Senedd term.

6. Use of 'from time to time'

The EPGBT Bill would enable Welsh Ministers to review important measures 'from time to time'. While this construct has been occasionally used in other Welsh legislation (for example, [section 25\(4\)](#) of the Environment (Air Quality and Soundscapes) (Wales) Act 2024), it does not appear to be commonly used. We question its appropriateness in the context of reviewing important legislative provisions (the Environmental Principles and Integration Statement and legally binding biodiversity targets) which have already been subject to lengthy delays.

7. Coming into force dates

No timetable has been provided for the establishment of the OEGW. The majority of its provisions will come into force on a day appointed by the Welsh Ministers in an order made by Welsh statutory instrument. While the process of establishment and vesting will need to be sequenced, the lengthy delays experienced to date suggest that it would be prudent to ask for a timetable to be published so that the Senedd and civil society can hold future Welsh Ministers to account on implementation.

Green Alliance, 26 June