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Welsh Government

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Consultation:

Rural Proofing and Environmental Sustainability White Paper

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Action required: Responses by 14 October 2026

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

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Overview

The Rural Proofing and Environmental Sustainability White Paper brings together two related but distinct sets of proposals.

Firstly, we are seeking views on proposals for a statutory duty on rural proofing to ensure rural needs are considered consistently when policies are developed and delivered.

Secondly, it contains climate and environmental sustainability proposals which support the developing Climate and Nature Action Plan by making existing legislation clearer, more workable and better able to support delivery on climate change, nature recovery, woodland protection, waste management improvements, environmental enforcement and the sustainable use of natural resources.

The proposals are intended to make government work better for Wales by strengthening legal and policy tools, supporting fair and effective regulation, and helping deliver cleaner places, healthier ecosystems and stronger rural communities.

Subject to the results of this consultation, a decision will be taken on the proposals to be taken forward through primary legislation. This would include a decision on whether proposals on rural proofing and environmental sustainability will be taken forward through the same or separate Bills.

How to respond

Please use the consultation response form at the end of the document to provide your views. You can do this through our email address or office address below.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

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This document is also available in Welsh: https://www.llyw.cymru/papur-gwyn-ar-gynaliadwyedd-amgylcheddol-gwydnwch-gwledig

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In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. We publish responses anonymously and your name and contact details will not be included. If you would like your name or other details published alongside your response, please let us know when you submit your response, and we will include them.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response, then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:
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Cathays Park
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The contact details for the Information Commissioner's Office are:

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Ministerial Foreword

This White Paper brings together two related but distinct sets of proposals.

The first is focused on strengthening how the needs of rural communities are considered, when policies, services and programmes are developed and delivered.

The second sets out a range of environmental sustainability proposals to make our legislation clearer, more workable and better able to support delivery on climate change, nature recovery, woodland protection, waste management, environmental enforcement and the sustainable use of natural resources.

Together, these proposals are about making government work better for Wales. They are intended to support stronger rural communities, healthier ecosystems, cleaner places and a fairer, greener and more resilient economy.

Rural Wales is central to our ambition to deliver fairness and opportunity across all parts of Wales. Rural communities make a vital contribution to our economy, environment, culture and the Welsh language. They are places of enterprise, innovation, food production, landscape stewardship and community strength. But they also face distinct pressures, including access to services, transport, housing, digital connectivity, employment opportunities and the sustainability of Welsh-speaking communities.

Reflecting our First 100 Days commitment, this White Paper proposes a new, statutory duty on rural proofing. This will help ensure that the needs of rural communities are considered consistently, transparently and early in decision-making.

We want policy and delivery to be better informed by the realities of rural life. By embedding rural thinking more firmly into decision-making, we can support better outcomes for people, businesses and communities across rural Wales.

At the same time, Wales faces growing pressures from climate change, nature loss, pollution and the unsustainable use of natural resources. These challenges affect the air we breathe, the water we rely on, the resilience of our communities, the security of our food systems, the health of our ecosystems and the places where people live, work and visit.

Across Wales, people are already responding to the climate and nature challenges we face. Communities, farmers, land managers, businesses, public bodies and environmental organisations are restoring habitats, managing land and water more sustainably, reducing waste, caring for woodland and building more resilient places. Their work shows the commitment, innovation and practical action already under way in every part of Wales.

In the First 100 Days, we committed to establishing work on a Climate and Nature Action Plan to help realise our net zero 2040 ambition and support substantive nature recovery by 2050. This White Paper is one of the practical steps in that work. It proposes changes to improve climate reporting and planning, strengthen waste and resource management, tackle fly-tipping, protect woodland from unlawful felling, support woodland restoration and ensure environmental law can respond to new evidence and emerging challenges.

Another key priority is addressing the legacy of EU exit, which has altered the ability of the Welsh Ministers to amend important environmental law. Without change, significant areas of law risk becoming difficult to update. These proposals will ensure decisions affecting our environment, communities and economy can be taken in Wales, in line with Welsh priorities.

Together, these changes help turn our commitments into practical tools for delivery. They will support regulators to intervene effectively, give businesses and land managers greater clarity, and help ensure environmental protections translate into tangible outcomes for communities across Wales.

This consultation provides an opportunity to shape that future together. We are committed to working in partnership with communities, stakeholders and

organisations across Wales to ensure these proposals are practical, proportionate and deliverable.

Together, with a strong focus on accountability, responsibility and doing the best for Wales, we can strengthen how we protect and improve our natural environment, support our communities, our Welsh language and our economy, and deliver our ambition for Wales.

I look forward to hearing your views.

Executive Summary

1. The Rural Proofing and Environmental Sustainability White Paper brings together two related but distinct sets of proposals.

2. Firstly, we are seeking views on proposals for a statutory duty on rural proofing to ensure rural needs are considered consistently when policies are developed and delivered.

3. Secondly, it contains climate and environmental sustainability proposals which support the developing Climate and Nature Action Plan by making existing legislation clearer, more workable and better able to support delivery on climate change, nature recovery, woodland protection, waste management improvements, environmental enforcement and the sustainable use of natural resources.

Rural Proofing

4. Our proposals for a statutory duty on rural proofing, reflect the Welsh Government's First 100 Days commitment to ensure policy and services are responsive to rural needs.

5. Current arrangements are inconsistent and not systematically embedded in decision-making. The proposed duty would require the Welsh Ministers and potentially other public authorities to have regard to rural needs when developing and delivering policy, strengthening consistency, accountability and focus on the distinct challenges facing rural communities.

Environmental Sustainability

6. Wales has a strong legislative framework for protecting and improving the environment. It underpins action on climate change, nature recovery, woodland management and the sustainable use of resources. The proposals in this White Paper focus on how that framework operates in practice, and where changes are needed to ensure it remains clear, coherent and capable of supporting effective delivery.

7. Environmental law must continue to work as an integrated system. Where provisions overlap, where reporting or planning requirements no longer align, or

where powers cannot be updated in a timely way, this can create uncertainty and limit the effectiveness of action on the ground. This White Paper therefore brings forward a package of practical reforms to improve how the framework operates and ensure it can respond to new evidence and emerging challenges.

8. The first set of proposals in this section focus on climate change legislation. These frameworks play an important role in giving communities, businesses, public authorities and investors the certainty they need to plan ahead, helping Wales make progress on nature recovery and benefitting future communities. The proposed changes seek to improve the clarity and effectiveness of Wales's statutory reporting and planning arrangements on climate resilience and adaptation by updating them to align with the carbon budgeting framework in the Environment (Wales) Act 2016; recognising engineered greenhouse gas removals in carbon accounting; extending the duration of carbon budget plans to cover two budgetary periods and making consumer emissions reporting proportionate to available data. In doing so the changes seek to provide a clearer and more integrated approach to climate governance, improve long-term policy planning for stakeholders and give a more complete picture of progress towards climate goals.

9. The White Paper also sets out a series of proposals to strengthen the Forestry Act 1967, with the aim of better protecting woodland and supporting sustainable land management. These include enabling regulators to act more quickly where unlawful felling is suspected, strengthening enforcement to ensure woodland is restocked following offences and improving transparency through the registration of prescribed notices and court orders as land charges. Together, these changes are intended to prevent avoidable environmental harm, support better decision-making, and ensure woodland is protected and restored in practice.

10. Alongside these legislative proposals, the White Paper seeks views on woodland creation and restoration. It recognises the importance of increasing tree cover to meet climate and nature objectives, while also ensuring that planting is well-designed, appropriately located and balanced with other land uses, including the protection of high-quality agricultural land.

11. The White Paper also sets out proposals in relation to waste and resource management. It identifies a need to strengthen the effectiveness of the existing framework in response to fly tipping, littering and unsustainable consumption patterns. Proposals include improving enforcement tools, increasing fixed penalty levels for fly-tipping and household waste duty of care offences, and seeking views on introducing new approaches to tackle littering from vehicles. It also includes a targeted amendment to the single-use plastics regime to ensure reporting requirements operate as intended and provide clearer, forward-looking information to businesses and stakeholders.

12. More broadly, the White Paper considers how environmental law can remain adaptable over time. We are proposing to take a power that enables the Welsh Ministers to modify certain regulations made under section 2(2) European Communities Act 1972 that relate to the environment. It is proposed the regulations subject to the power to modify will be listed in the Bill. The power to modify is needed because, following our exit from the EU, our ability to amend regulations made under section 2(2) is altered. The Welsh Ministers need the legislative tools to maintain high environmental standards, respond to new evidence and policy priorities, and act in a timely way where changes are needed. Without such a power, Wales may be left with important regulations relating to the environment that are difficult to amend.

13. It also includes a proposal to simplify the Environment (Wales) Act 2016 by removing a duplicative consultation requirement in relation to biodiversity planning. This change is intended to improve clarity and consistency, whilst not diluting the duty to consult.

14. The White Paper recognises the importance of effective enforcement in delivering environmental outcomes. It therefore proposes establishing a Task and Finish Group to consider how the civil sanctions regime for environmental and agricultural offences could be strengthened and modernised in Wales, including whether changes to the current framework are needed to improve flexibility, proportionality and effectiveness.

15. Each proposal in this consultation addresses a specific issue with how the current framework operates. Taken together, they are intended to ensure that environmental law in Wales remains clear, workable and capable of supporting practical action, providing a stronger foundation for delivery across climate, nature and resource management objectives.

White Paper Structure

16. The following sections set out changes that help turn rural proofing and environmental sustainability ambitions into practical delivery. Each proposal addresses a specific problem in the way existing law operates, but together they strengthen the ability of Wales to prevent harm, support sustainable resource use, improve transparency and maintain public confidence in environmental governance.

17. The proposals reflect the need for law to support the outcomes people expect. These are cleaner places, more resilient ecosystems, fairer and more effective regulation, and timely action where harm is occurring or likely to occur. They also support a long-term approach to climate, nature and rural resilience by ensuring the statute book remains fit for modern challenges.

18. To help inform our policy development and to strengthen our Regulatory Impact Assessment and Integrated Impact Assessment that are published alongside the White Paper, we welcome views on the proposals, including any risks, unintended consequences/impacts and financial impacts.

19. Please respond using the consultation response form at the end of this document by the deadline set out on the front cover.

Rural Proofing

20. The Welsh Government committed in its first 100 days to bring forward proposals for a statutory duty on rural proofing. The commitment reflects the government's determination to ensure that policy, programmes and funding are fully responsive to all our communities, including the particular needs of rural communities. This section of the White Paper sets out the Welsh Government's proposals for a new statutory rural proofing duty and invites comment.

The challenge

21. People, households and businesses in rural areas often face both higher costs and lower incomes, while accessing public services is often more difficult. The Welsh Government is committed to delivering greater fairness for, and improving opportunities in, our rural communities, including as part of our wider mission to increase prosperity in all parts of Wales and to narrow the productivity gap with the UK.

22. The Welsh Local Government Association's (WLGA) Rural Policy Forum classifies nine of Wales's 22 local authorities as primarily rural[1], however, all local authorities across Wales include some rural areas. According to some definitions of rurality, over 80 per cent of Wales is rural and as much as a third of our total population lives in rural areas. Assessments of local well-being undertaken every five years by Public Service Boards provide detailed evidence on a wide range of issues including access to services, jobs and leisure for different communities. In many parts of rural Wales, the sustainability of communities and the sustainability of the Welsh language are closely linked, influencing both community resilience and opportunities to use Welsh in everyday life.

23. The issues and challenges facing rural Wales are multiple, diverse, and may interact with each other in cumulative ways. They include in summary:

[1] Carmarthenshire, Ceredigion, Conwy, Denbighshire, Gwynedd, Monmouthshire, Pembrokeshire, Powys, and Ynys Môn.

- social change, with ageing populations and out migration of younger people but also factors such as the prevalence of second homes impacting on the viability of some communities and services;
- a lack of well-paid jobs, which may also lack security and / or are seasonal;
- poor transport infrastructure and a lack of public transport, both of which affect access to services, facilities, work opportunities, and adds cost to service delivery;
- an economic productivity challenge;
- a lack of affordable housing;
- access / travel time to key services for health, education and training;
- patchy broadband and mobile coverage, which in turn affects access to services and economic and social activity;
- loss of high street services such as banks and post offices; and
- a perception from citizens that key services are not as available, affordable, accessible, adequate or acceptable as they used to be.

24. Issues and challenges are in part made, or are made worse, by the level of public funding available, with the added pressure of rising demand and significant cost inflation. Public funding pressures can in turn be intensified by the issues and challenges themselves, for example an ageing population profile can increase demand for social and health care but also mean a smaller local pool of economically active people. Public authorities have in response sought efficiency savings through increased use of online services, standardisation and/or centralisation of delivery models over large areas, although this may not take account of significant differences between rural and urban areas. Audit Wales has concluded that public authorities' response in itself is creating and reinforcing rural inequality.

25. Tackling these challenges requires greater thought being given to issues like accessibility and offering a range of service models and a focus on what can drive economic productivity in ways which result in benefits for all communities. Tackling these challenges will take a co-ordinated approach across Wales, spanning all Welsh Government portfolios but also relying on significant public authority ownership and action.

Current approaches to rural proofing in Wales

26. "Rural proofing" is a policy tool - a process by which policy makers, financial planners and service delivery managers consider and take account of the needs of rural communities in the design and delivery of initiatives. It is not a policy but is an activity consciously undertaken by decision makers to improve understanding of rural economic and social needs, appreciating how they might differ from more urban areas, and using that knowledge to develop policies and design the delivery of services which are nuanced or targeted to better meet rural needs.

27. Rural proofing is currently part of Welsh Government's Integrated Impact Assessment (IIA). IIAs are prepared to inform policy and legislation development, major programmes and decisions. Currently, rural proofing means Welsh Government assesses whether and how a policy or programme might have a different impact, or different needs, in a rural context. Guidance and advisory support is available to Welsh Government officials completing IIAs, and a template is completed to guide on whether any further in-depth work needs to be done. Individual policy areas within Welsh Government decide what action to take in response to the results of this assessment.

28. Audit Wales found in 2018 that local government generally makes poor use of existing rural proofing tools, where they are used at all[2]. The Welsh Government has not assessed the approaches public authorities in Wales may use to consider the needs or impacts of their policies and programmes on rural people, communities or businesses. Bodies operating mostly or wholly in rural areas may, of necessity, engage in implicit rural proofing to some degree, designing service models with rurality in mind. However, the drive to standardise services, and to sometimes

[2] Ibid.

centralise them, in pursuit of cost savings means the needs of rural communities may not be fully addressed. In addition, there is evidence that rural communities face structural, cross-cutting challenges, which are not confined to any single policy area but arise from decisions taken across government, affecting outcomes in areas such as transport, housing, health, and economic development. Current approaches to consider rural needs lack consistency and are not systematically embedded in decision-making.

The proposed change

29. The Welsh Government is proposing to legislate to create a new statutory "rural proofing" duty which would apply to the Welsh Ministers[3] and other public authorities operating in Wales.

30. Our approach has been informed by rural proofing duties elsewhere in the UK. We propose a rural proofing duty modelled on the duty set out in the Rural Needs Act (Northern Ireland) 2016.

The duty

31. A rural proofing duty would form a critical part of the Welsh Government's focus on promoting greater rural resilience. The purpose of the duty would be to place consideration of, and addressing, the needs of rural people, businesses and communities throughout what Welsh Government and public authorities do. It would aim to ensure that consideration and action in respect of such rural needs are taken early enough in decision making processes and are informed by evidence.

32. We propose imposing a duty on the Welsh Ministers and specified public authorities to have regard to rural needs when:

    (a) developing, adopting, implementing or revising policies, strategies and plans, and
    (b) designing and delivering public services.

33. We also propose that the Welsh Ministers should have the power to issue statutory guidance. The guidance would provide those subject to the duty with advice on how

[3] In law the duty would apply to the Welsh Ministers who make up the Welsh Government, rather than to the Welsh Government itself.

to apply the duty practically and provide guidance on tools such as rural proofing. Those public authorities subject to the duty would be required to have regard to the guidance in undertaking this duty.

34. We would welcome views on the proposed duty and the scope of the statutory guidance.

35. We would also welcome views about the extent to which the legislation should define “rural” or “rural community” or the extent that this should be left to guidance recognising that rural Wales is not homogeneous and may be relatively close to major centres of population or more remote.

Who the duty would apply to

36. We are proposing that the duty to have regard to rural needs would apply to the Welsh Ministers.

37. However, many key services are delivered by other public authorities. We therefore propose that the duty to have regard to rural needs should also apply to devolved Welsh public authorities. The intention is that the duty should be meaningful and it should be applied where the exercise of a public authority’s duties and functions directly impact on the services and outcomes of rural communities. We do not consider that it would be proportionate to apply to all devolved public authorities.

38. A list of the devolved Welsh public authorities we are considering the duty should apply to has been included at Annex 1 to this paper. A full list of devolved Welsh public authorities can be found here.

39. We are seeking views on whether the new duty should apply to the list identified in Annex 1 or whether it should only apply to a subset of those authorities or to additional authorities and, if so, which ones should be in scope.

40. We also propose the Welsh Ministers should have a power to add or remove public authorities to the list of authorities subject to the duty via subordinate legislation. This will help future proof the legislation.

41. Our focus is on devolved public authorities. Minister of the Crown consent from the UK Government would be required to place a duty on most reserved authorities exercising functions in Wales, such as UK government departments. We recognise that some reserved authorities are potentially significant, for example the four Welsh Police forces, and we would welcome views on whether we should consider seeking consent that the duty should apply to any reserved public authorities and, if so, which ones.

Other considerations

42. We recognise it will be important to assess the effectiveness of the implementation of this new duty and to assess the improved outcomes it has led to in terms of better consideration of rural needs in decision making and service design.

43. We are considering whether it would be appropriate to legislate to undertake a periodic assessment but are very conscious of the need not to create an industry of reporting. We want the focus to be on practical action to understand the needs of rural communities and taking action to ensure those needs are properly met.

44. We would welcome views on appropriate mechanisms to assess progress, arrangements for monitoring, reviewing, and reporting on the actions taken to comply with a duty and possibly the effectiveness of the duty.

45. We recognise that there are a number of existing duties on public authorities in Welsh law which apply to the exercise of functions or policy and programme design. For example, the Public Sector Equality Duty under the Section 149 of the Equality Act 2010 and the sustainable development under the Well-being of Future Generations (Wales) Act 2015.

46. We would welcome views on how these proposals can be designed and implemented in a way which complements these existing requirements. We would also welcome any views on areas of conflict which we may need to address either in the legislation or associated guidance.

How to make a rural proofing duty a success

47. The key to the success of any new rural proofing duty will be effective implementation. The Welsh Government is conscious there is a risk the duty results in “box ticking”, taking resources to administer but not driving meaningful change.

48. Both design of the duty and associated guidance and the approach to implementation will work to prevent this risk materialising.

49. We have drawn on the experience of the rural needs duty in Northern Ireland to identify factors which are likely to support effective implementation of a Welsh rural proofing duty. These factors are consistent with our learning about other duties on public authorities. They include:
    - Welsh Government and public authority leadership, giving strong direction and profile to the duty;
    - access to relevant data and the ability to interpret it properly;
    - availability of tools and resources to enable impact identification;
    - meaningful and proportionate monitoring and reporting;
    - flexible and imaginative consideration of how to adjust policy or programmes to ensure they meet the needs of rural communities;
    - periodic review of the duty and to whom it applies and how; and
    - understanding how rural policy and service delivery decisions may affect the sustainability of Welsh-speaking communities and the vitality of the Welsh language as a thriving community language.

50. A key factor will be ensuring that having regard to rural needs or ‘rural proofing’ is viewed broadly. It is about economic development and the allocation of resources, as much as it is about social need and service delivery equity.

51. Wales has a track record of partnership and structures exist which would be relevant to a duty, for example Corporate Joint Committees and Public Service Boards. We are interested in views about the potential role these structures could play in supporting more effective consideration of rural needs. We are also keen to hear about good practice already demonstrating effective consideration of rural needs.

52. The practice in other countries suggests that success depends on actions and resources put in place to support delivery of a statutory rural proofing duty, for example, detailed guidance and templates, evidence and research, networking and capacity building. We have already proposed above that the Welsh Ministers should have the power to issue statutory guidance to support implementation and we would be keen to develop this and other tools, resources and practice sharing opportunities in partnerships with public authorities and communities.

Welsh language considerations

53. Many of Wales's Welsh-speaking strongholds are in rural areas. The sustainability of these communities depends not only on the availability of Welsh language services but also on wider factors including access to affordable housing, employment opportunities, transport, education, healthcare and digital connectivity.

54. Therefore, decisions which affect the sustainability of rural communities may also affect opportunities to use Welsh in daily life and the long-term viability of Welsh-speaking communities. Consideration of rural needs can therefore support wider Welsh Government ambitions for the language, including the aims and objectives of Cymraeg 2050 as well as the implementation of the recommendations of the Commission for Welsh-speaking Communities' reports.

55. In addition, the Welsh Government committed in its 100 days to 'begin the process of legislating for new protections for areas of higher linguistic density', and 'engage with work of the Commission on areas with medium and lower densities of Welsh speakers'.

56. The Welsh Government recognises that rural proofing and consideration of Welsh language impacts are distinct but often complementary activities which can together support sustainable, thriving communities across Wales.

Consultation questions

1. Do you think Wales needs a new rural proofing duty? Please explain your response.

2. Do you agree with the proposed form of the rural proofing duty (a duty to have regard to rural needs)? Please explain your answer.
3. Do you agree with the proposed list of public authorities to whom the duty should apply? Please explain your answer.
4. Do you think public authorities subject to a rural proofing should be required to periodically report on what actions they have taken, or propose to take, to comply with the duty? Please explain your answer.
5. Do you agree that the Welsh Ministers should be required to provide statutory guidance to support the new rural proofing duty? If so, what is your view on what should be included in that guidance. Please explain your answer.
6. What is your opinion about how a duty might work with existing arrangements between public authorities for joint working?
7. What practical matters, such as evidence and research, networks and human capacity building, would need to be addressed to make a rural proofing duty successful?
8. What benefits, costs, risks or unintended consequences do you think could arise from introducing a statutory rural proofing duty?
9. Do you have any other comments, evidence or experience, including from other parts of the UK or internationally, that should inform the development of proposals? For respondents who are public authorities, it would be beneficial to know what action you already undertake to consider rural proofing.
10. How, if at all, should a rural proofing duty work alongside the designation of Areas of Higher Density Linguistic Significance? In your view, what additional contribution could rural proofing make to supporting the sustainability of Welsh-speaking communities in those areas?
11. What evidence, data, guidance or other resources would public authorities need to effectively consider impacts on Welsh-speaking communities and the Welsh language when undertaking rural proofing?

Climate Change

57. The Climate Change Act 2008 sets the United Kingdom's legal framework for tackling climate change. For Wales, it does two main things: it creates legally binding duties on the UK Government to reduce greenhouse gas emissions over time, and it requires action to prepare for the impacts of climate change. The Act introduced five-year carbon budgets for the UK, statutory reporting on emissions and progress, and created the independent Committee on Climate Change to advise governments and report on progress.

58. In Wales, these arrangements operate alongside the Environment (Wales) Act 2016, which introduced five-year carbon budgets for Wales and decadal Welsh targets to reach net zero in 2050. They also support the ambitions being developed through the Climate and Nature Action Plan, which explores practical pathways towards net zero by 2040, and substantive nature recovery by 2050. Together, these frameworks support a long-term, preventative approach to climate change, recognising the real-life implications for people's health, the resilience of communities and the strength of the economy.

59. This is important because climate policy needs to support long-term confidence for communities, businesses, public authorities and investors, contributing to nature recovery and delivering lasting benefits for future generations. Clear plans and reporting help show how Wales will reduce emissions, adapt to climate impacts, protect people from risk, and support a fair transition to a stronger low-carbon economy.

Climate Change Act 2008

Amend Section 80(1) and (4) – Report on climate change: Wales

60. This section sets out proposed amendments to section 80 of the Climate Change Act 2008, which requires the Welsh Ministers to lay a report in the Senedd from time to time on objectives, actions and future priorities in relation to greenhouse gas emissions and the impact of climate change.

Current law

61. Section 80(1) places a duty on the Welsh Ministers to lay a report before the Senedd from time to time on their approach to climate change in Wales. The report must address:

    - the objectives of the Welsh Ministers in relation to greenhouse gas emissions and the impact of climate change in Wales;
    - the action that has been taken by the Welsh Ministers and others to deal with those emissions and impacts; and
    - the future priorities of the Welsh Ministers and others for dealing with those emissions and impacts.

62. Subsection (4) provides that the second and each subsequent report prepared by the Welsh Ministers must include an assessment of progress made towards implementing the objectives set out in earlier reports.

The problem

63. Since the Climate Change Act 2008 was enacted, the legislative framework in Wales has evolved significantly. The Environment (Wales) Act 2016 created the statutory framework for emissions reduction in Wales.
    - Section 31 requires the Welsh Ministers to set a maximum amount of greenhouse gas emissions that may be emitted for each five-year period (a carbon budget).
    - Section 39 places a duty on the Welsh Ministers to publish a report for each carbon budgetary period that sets out their policies and proposals for meeting the budget.
    - Section 41 requires the Welsh Ministers to publish a final statement on each budgetary period that declares whether or not the budget has been met.
64. As they relate to greenhouse gas emissions, these three sections provide for the Welsh Ministers to publish their objectives (carbon budgets), and actions and priorities (reports of policies and proposals), and to report on progress against those objectives (final statements). Therefore, the inclusion of greenhouse gas emissions within section 80 reporting is now duplicative and unnecessary, reducing clarity and creating overlap across reporting processes.

65. In addition, the requirement in section 80 for a report to include an assessment of progress alongside objectives, actions and priorities does not align with the approach for emissions reduction established by the Environment (Wales) Act 2016. This created three separate elements: carbon budgets, reports of policies and proposals, final statements.

The proposed change

66. We propose to amend section 80(1) so that the Welsh Ministers are required to lay a report in the Senedd from time to time on the objectives, actions and future priorities in relation to the impact of climate change in Wales only. This would remove greenhouse gas emissions from this duty, because, as set out above, Wales now has a separate statutory framework for emissions reduction through the Environment (Wales) Act 2016.

67. We also propose to amend section 80(4) so that it no longer requires a section 80(1) report to assess the progress made towards implementing objectives in previous reports which relate to the impact of climate change in Wales. This kind of progress report will still be something which is required of the Welsh Ministers under the amended section 80(4), but not in the same report as is required under section 80(1). Separating forward-looking plans and backward-looking progress reports will bring the duties in relation to climate change adaptation reporting under the Climate Change Act 2008 in line with the duties in relation to emissions reduction reporting under the Environment (Wales) Act 2016.

How this would work in practice

68. If made, the changes would refocus the section 80(1) report on the impact of climate change and require assessments of progress to be produced separately.

Consultation questions

12. Do you agree that the section 80(1) report should focus on the impact of climate change only, because Wales now has a separate statutory framework for greenhouse gas emissions reduction through the Environment (Wales) Act 2016? Please explain your view.

13. Do you agree that assessments of progress in addressing the impacts of climate change should be separated from the section 80(1) report on objectives, actions and future priorities? Please explain your view.

Impacts and considerations

69. Amending section 80 would make climate change reporting clearer and more useful. It would avoid duplication with the emissions reduction framework in the Environment (Wales) Act 2016 and allow reporting under the Climate Change Act 2008 to focus on the impacts of climate change. This would support better scrutiny, clearer accountability and a stronger focus on how Wales prepares for risks such as flooding, extreme heat, coastal change and impacts on communities, infrastructure, health and nature.

Environment (Wales) Act 2016

Amend section 34(3), net Welsh emissions

70. This section sets out a proposed change to the statutory definition of Welsh removals in section 34(3) of the Environment (Wales) Act 2016, which affects the calculation of the net Welsh emissions account and reporting on progress against statutory targets.

Current law

71. The Act establishes the process for calculating net Welsh emissions, which allows for determining whether statutory carbon budgets and emissions reduction targets have been met. Net Welsh emissions are calculated by subtracting Welsh removals from Welsh emissions. The Act currently defines Welsh removals as removals from the atmosphere "due to land use in Wales, land use change in Wales, or forestry activities in Wales". This mirrored the original definition of UK removals in the Climate Change Act 2008.

The problem

72. The current definition of Welsh removals excludes engineered removal techniques. If the statutory definition is not amended to include the whole range of removal techniques, then engineered removals, such as bioenergy with carbon capture and

storage, cannot be counted when calculating the net Welsh emissions account and reporting on progress against statutory targets.

The proposed change

73. We propose to amend the statutory definition so that it includes removals from the atmosphere "due to processes, mechanisms or activities". This would copy the revised definition of UK removals, which was updated via section 160 of the Energy Act 2023.

How this would work in practice

74. If made, the change would allow engineered removals, such as bioenergy with carbon capture and storage, to be counted when calculating the net Welsh emissions account and reporting on progress against statutory targets.

Consultation questions

14. Do you agree that the definition of Welsh removals should be amended so that it includes removals from the atmosphere "due to processes, mechanisms or activities"? Please explain your view.
15. Do you have views on the implications of counting engineered removals in the net Welsh emissions account? Please explain.

Impacts and considerations

75. This proposal would ensure Wales can recognise a wider range of carbon removal approaches when calculating net Welsh emissions, while maintaining transparency about how progress is reported. It supports a realistic pathway to net zero by ensuring the statutory framework can reflect developing technologies alongside nature-based approaches such as woodland, peatland and soil carbon. The proposal does not determine future policy choices on engineered removals but ensures the accounting framework can accommodate them if they are used.

Amend section 39, proposals and policies for meeting carbon budgets

76. This section sets out a proposed change to section 39 of the Environment (Wales) Act 2016, which requires the Welsh Ministers to publish a report of policies and proposals for meeting a carbon budget.

Current law

77. Section 39 currently requires the Welsh Ministers to publish a report of policies and proposals for meeting a carbon budget before the end of the first year of the period in question.

The problem

78. This means the Welsh Government only sets out the detail of its pathway four years into the future, and twenty per cent of the budget can pass without a plan being in place. In contrast, the UK and Scottish Government plans cover sixteen and fourteen years into the future, respectively. Longer term plans provide more clarity for industry and other stakeholders and ensure there is always an active plan in place.

The proposed change

79. We propose to amend section 39 so that each plan must contain policies and proposals for meeting two carbon budgets on a rolling cycle. For example, the plan published in 2031 would cover Carbon Budget 4, from 2031 to 2035, and Carbon Budget 5, from 2036 to 2040. The plan published in 2036 would cover Carbon Budget 5, from 2036 to 2040, and Carbon Budget 6, from 2041 to 2045.

How this would work in practice

80. This would mean Wales would always have an active plan in place, and it would provide greater certainty in the medium-term and longer-term as to how the Welsh Ministers intend to meet statutory targets, more aligned to practice elsewhere in the UK.

Consultation questions

16. Do you agree that section 39 should be changed so that each plan contains policies and proposals for meeting two carbon budgets on a rolling cycle? Please explain your view.
17. Do you have views on the practical implications of producing plans on this basis, including for stakeholders who use the plans? Please explain.

Impacts and considerations

81. This proposal would give Wales a longer and more stable planning horizon for carbon budgets. A rolling two-budget approach would help communities, public authorities, businesses and investors understand the direction of travel and plan with greater confidence. It would also reduce the risk of gaps between ambition and delivery by ensuring that Wales always has an active plan in place.

82. Through this amendment, we are seeking to provide industry and other stakeholders in Wales with more information and certainty regarding the Welsh Government's intentions for delivering carbon budgets. By aligning more closely with the approach elsewhere in Great Britain, we wish to increase Wales's attractiveness as a place to invest in the net zero transition.

Amend section 41(11), final statement for budgetary period

83. This section sets out a proposed change to section 41(11) of the Environment (Wales) Act 2016, which requires a final statement for a carbon budget to include an estimate of consumer emissions for the budgetary period.

Current law

84. Section 41 requires the Welsh Ministers to publish a final statement on each carbon budget before the end of the second year following the end of the budgetary period. A final statement confirms whether a carbon budget has been met.

85. Section 41(11) requires a final statement to include "an estimate of the total amount of Welsh consumer emissions for the budgetary period to which the statement relates, and an explanation of how the Welsh Ministers have calculated the estimate."

86. Section 41(12) defines "Welsh consumer emissions" for a period as "the emissions of greenhouse gases, whether in Wales or elsewhere, that may reasonably be attributed to the consumption and use of goods and services in Wales during the period."

The problem

87. There is a three-year lag in consumer emissions data, so it is not possible to comply with the timeframe established by the Act. For example, the final statement for Carbon Budget 1 (2016-20) had to be published before the end of 2022, but at that point only consumer emissions data to 2019 was available. A revised final statement was published in spring 2023 to incorporate consumer emissions data for 2020.

The proposed change

88. We propose to amend the Act so that a final statement must include an estimate of consumer emissions for the budgetary period using the most recent data available. This would reflect the availability of the necessary data and make complying with the legislation regarding final statements achievable.

89. We also propose to require that Ministers publish an estimate of consumer emissions online every year. Consumer emissions are a national wellbeing indicator, so there is currently a requirement under the Well-being of Future Generations (Wales) Act 2015 to publish data annually. Adding an additional requirement to the Environment (Wales) Act 2016 is considered necessary, since a future government could change the list of national wellbeing indicators to remove consumer emissions.

How this would work in practice

90. If made, the amendment would allow the Welsh Ministers to meet the final statement duty using the most recent consumer emissions data available at the time. In

practice, and reflecting current data constraints, this would mean using data for the first four years of the period. The annual publication requirement would provide an updated estimate each year, rather than requiring revisions to final statements when new data becomes available.

Consultation questions

18. Do you agree that section 41(11) should be changed so that a final statement uses the most recent consumer emissions data available? Please explain your view.

19. Do you agree there should be a new requirement for the annual publication of an estimate of consumer emissions? Please explain your view.

Impacts and considerations

91. These proposals would make the final statement duty workable within existing data constraints while preserving transparency on consumer emissions. Annual publication would keep this important measure visible over time, helping Wales understand the emissions associated with the goods and services we use and supporting wider action on sustainable consumption, resource efficiency and the transition to a circular economy.

Forestry Act 1967

92. Woodland is central to Wales's response to the climate and nature emergencies. It stores carbon, supports biodiversity, improves air and water quality, reduces flood risk, provides places for recreation and wellbeing, and underpins rural jobs, skills and supply chains. Increasing tree cover is important, but so is protecting the woodland Wales already has. The proposals in this section are designed to stop unlawful loss, secure restocking and improve transparency for land transactions.

Notices to stop and information requirements

93. This section sets out a proposal to amend Part II of the Act to give the appropriate forestry authority, Natural Resources Wales (NRW), clear powers to require

unlawful tree felling to stop immediately in order to prevent tree loss and associated environmental damage, retain timber/arisings (which are the byproduct of the felling process – typically wood chips, twigs, branches, foliage etc) on site whilst investigations are carried out and provide information. This would enable NRW to act more quickly if there is unlawful felling, prevent further environmental harm, and ensure evidence is retained to support effective enforcement.

Current law

94. The Act is the principal piece of legislation that governs forestry and the felling of trees. NRW is the "appropriate forestry authority" for Wales under the Forestry Act 1967, with powers to regulate tree felling. NRW are also an 'appropriate enforcement authority' under the Act. m Part II of the Act (section 9) provides that a felling licence granted by the appropriate forestry authority is required to fell growing trees. This ensures that tree felling is undertaken in a sustainable way, for example ensuring that a timber crop is replanted with appropriate species and considers aspects of landscaping. Felling licences may also ensure that a woodland habitat is only selectively felled or thinned to maintain woodland cover as a habitat or landscape feature and improve its condition. Exemptions apply, for example, for trees with a diameter not exceeding 8cms or the felling of fruit trees or trees in gardens, orchards, churchyards or open public space. Section 17 of the Act sets out that felling trees without the authority of a licence where it is required, is unlawful and is a criminal offence, subject to an unlimited fine.

The problem

95. Felling sometimes takes place without a licence and in circumstances where exemptions do not apply, for example where a person is not aware of the law relating to trees. In some cases, people may remove trees without a felling licence to increase the value of their land for example to pre-empt planning permission for development, for agricultural improvement or other non-woodland land uses. Unlawful felling operations such as these can have negative impacts on the environment, biodiversity, landscape or local amenity.

96. NRW investigate cases of potentially unlawful felling, where trees are/have been felled without a felling licence and it is not obvious that an exemption applies.

97. Currently, NRW has no power to issue a formal notice to stop, prohibiting the carrying on of the felling activity. Only an advisory letter can be given at this point, advising the landowner or person responsible that it is suspected that they are committing an offence. However, this may not stop the felling activity as it has no legal force. Where an offence is suspected, NRW measures the volume of timber that has been felled as part of their investigation into the extent of the offence. However, disposal or sale of unlawfully felled trees or timber/arisings by the person responsible makes this difficult.

The proposed change

98. We propose to amend the Act to enable NRW to serve a formal notice to stop where a potential offence is suspected, prohibiting felling activity from continuing where no felling licence was in place. The effect of the notice would be immediate, allowing the matter to be further investigated while preventing any risk of continued harm. The notice would remain in place until it was withdrawn by NRW.

99. A notice to stop is important to prevent new or further damage while the case is investigated by NRW. It would also serve to prevent further environmental damage to the site that would hinder restocking of the woodland/trees, for example, pulling up tree stumps or covering the site with rubble. To investigate the extent or legality of these cases, NRW often requires information from the landowner or person responsible about the felling operation. This could include for example any exemptions being relied on, start dates, names of contractors, volumes of timber felled or about the sale or location of the unlawfully felled timber. Currently, the information required is not always provided in response to NRW's requests, which can delay or hinder investigations.

100. To address this issue, aligned to the notice requiring activity to stop, we propose to amend the Act to provide NRW powers to serve a notice requiring that the landowner or person responsible provides information necessary to NRW's investigation of the unlawful felling. A notice would also require that all timber/arising remain on site until NRW's investigation has concluded, so that the volume removed and the extent of the offence can be assessed and evidence recorded.

101. These notices would provide a clear instruction to cease unlawful felling, retain felled timber as evidence of extent and provide necessary information while NRW investigated the case. Failure to comply with these notices would be a criminal offence with an associated unlimited fine, providing further evidence for court proceedings.

How this would work in practice

102. In circumstances where NRW had reasonable grounds to believe that felling activity was taking place or likely to take place without the required authorisation, it would have the power to issue a notice prohibiting a person from carrying on the activity specified in the notice.

103. The notice would enable earlier intervention by NRW in response to suspected unlawful felling and prevent harm to the forestry, woodland, trees or the associated environment while the facts of each case are investigated and established.

104. Following the service of the notice, NRW would engage with the person involved to understand the nature of the activity being undertaken.

105. The notices could also require that steps are taken to retain all trees/timber/arisings on site for further investigation.

106. A notice requiring information to be provided could also be served on a person who has been served a notice to stop. This would require that person to provide specified information necessary to support NRW's investigation, to establish whether the felling was unlawful (as it may be that exemptions were relied on by that person) and the extent of the unlawful activity. It is envisaged that this notice would stipulate the information that is required, the purposes for which it is required, how the information should be provided and within what timescales. If the information submitted in response to this notice demonstrated that the felling operation did not constitute an offence e.g. evidence that an exemption under the Act applied, then the notice to stop would be withdrawn. If information provided showed there to be a potential offence under section 17 or section 24(4) of the Act, the notice to stop would remain, and further contact would be made with the potential offender.

107. The notice to stop would enable the correct level of enforcement to be established earlier in the incident, potentially avoiding an offence being committed. For example, being able to stop the offence at an early stage and resolve through advice and guidance should help prevent the case escalating in scale to the point of potential prosecution. This would also reduce the environmental damage arising from unlawful felling. Failure to comply with the requirements of the notices would be an offence.

Consultation questions

20. Do you agree that NRW should have a power to issue a notice to stop to a person felling trees without a felling licence while the matter is investigated and to prevent further environmental damage? Do you have any alternative approaches? Please explain your view.

21. Do you agree that there should be power to include in a notice a requirement that timber/arisings remain on site while NRW investigates, to preserve evidence and enable accurate assessment of the offence? Please explain your view.

22. Do you agree that NRW should have the power to issue a further notice requiring the person responsible to provide information necessary to NRW's investigation to establish whether the felling was unlawful and the extent of the unlawful activity? Please explain your view.

Impacts and considerations

108. This proposal would strengthen the ability to prevent environmental harm before it became irreversible. A legally enforceable notice to stop would allow NRW to intervene quickly where unlawful felling was suspected, preserve evidence, protect the site from further damage, and support proportionate enforcement. This would better protect woodland as a habitat, landscape and community asset, while giving responsible landowners and contractors greater clarity about the consequences of unlawful activity.

A court order to restock

109. This section sets out a proposal to amend Part II of the Forestry Act 1967 (the Act) to enable a court order to be issued requiring the person responsible to plant or replant trees (a court order to restock) where the landowner has been convicted of an offence of unlawfully felling trees; failing to comply with the restocking conditions of a felling licence; or a notice to restock served by NRW as the appropriate forestry authority.

110. The proposal would strengthen enforcement by enabling courts to issue an order requiring land to be restocked with trees. This would help ensure woodland is restored and deter unlawful felling where fines alone are not always an effective deterrent.

Current law

111. Section 17 of the Act provides the penalty for felling without a licence. This section sets out that felling trees without the authority of a licence where it is required, is unlawful and is a criminal offence, subject to an unlimited fine.

112. Where a person has committed an offence under section 17, NRW as the appropriate forestry authority, has the power to issue a restocking notice. This requires the person on whom the notice is served to restock the land with trees and maintain that land with trees under the practices of good forestry. If the person fails to comply with the restocking notice, section 17C enables NRW to issue an enforcement notice under section 24. Section 24 (2) of the Act also gives NRW the power to serve an enforcement notice to comply with works set out in a felling licence e.g. a restocking condition. If a notice issued under section 24 is not complied with, an offence is committed, punishable by an unlimited fine. The primary focus is on replanting the trees rather than prosecution and fines, to ensure the woodland is replanted as a habitat/timber resource and the associated ecosystem benefits provided are reinstated.

The problem

113. There is currently an issue in Wales where land is unlawfully deforested to facilitate agricultural expansion or property development / pre-empt planning applications, with associated increases in land value. Around 180 hectares of varying woodland types are unlawfully felled each year. Of these around 30 hectares per year remain unplanted due to non-compliance with restocking or enforcement notices. Most of this area is usually ancient or native woodland. These figures reflect only the proportion of cases that are reported to NRW. Unlawful felling can also provide space for other unlawful purposes such as illegal settlement or illegal waste deposits such as fly tipping and waste dumping.

114. NRW has prosecuted unlawful felling cases under section 17 of the Act. NRW has also successfully prosecuted cases where persons have failed to comply with a section 24(2) enforcement notice to restock or to comply with felling licence restocking conditions. However, while the courts have powers to issue financial penalties, they have no powers to ensure that the trees are replanted. Some owners are willing to take the risk of a court appearance and associated fine if the resulting increase in land value is high. Where a fine is paid, no further action regarding the replanting of trees lost can be taken. This results in the loss of woodland cover in Wales and the loss of the associated environmental, landscape and cultural benefits such woodland cover brings.

115. As an example, a case arose where a landowner was successfully prosecuted for unlawfully felling and not restocking around 7 hectares of native mixed broadleaved woodland which included elements of ancient woodland. Whilst the landowner was found guilty of unlawful felling, the enforcement options open to NRW and the courts were exhausted and the land remains cleared of trees and in need of replanting.

The proposed change

116. As recommended by the Interim Environmental Protection Assessor, Wales, in the Protection of Trees and Woodlands in Wales Report, 2025, it is proposed that the courts are given the power to make a court order to restock, which is an order requiring the replanting of trees on land specified in the order. This would be in addition to financial penalties that the court deems appropriate.

117. The Act was amended by inserting section 24B to allow this in England, and a similar power is needed for Wales.

How this would work in practice

118. On prosecuting a landowner or person responsible for a section 17 unlawful felling or non-compliance with a section 24(2) enforcement notice, NRW would apply to the court to issue a court order to restock to compel the landowner or person responsible to restock the felled area with trees within a specified time period. The court order to restock could only be made following a person's conviction for an offence, in addition to any fines handed down by the court.

119. In addition to a prosecution resulting in a fine, a court order to restock would be a stronger legal mechanism to enforce replanting and would act as a better deterrent for those considering unlawful felling. The court order would require the land to be replanted with trees, which would remove the potential increase in land value, removing the incentive for owners to take the risk of financial penalties.

120. In some instances, sites felled for alternative uses have been sold or further damaged while the case to prosecute has been developed. This has included the dumping of illegal waste which has made replanting of the site unachievable. In these cases, the proposal is that a court may decide to apply a court order to restock an alternative area. Although this would not replace the trees lost in their original location, this approach would ensure that an equivalent area of woodland is created, helping to replace the ecosystem and community benefits lost.

121. Consequently, it is proposed that a court order to restock could be made by the court following a person's conviction for an offence under:

- Section 17 – unlawful felling
- Section 24(4) – failure to comply with an enforcement notice for a) the conditions of a felling licence that relate to the restocking or stocking of land with trees or (b) the requirements of a restocking notice.

122. A court order to restock would require a person to take specified steps within a specified time to restock an area of land with trees. This could either be the land

under which the enforcement notice was given or other land that the court considers appropriate. The person would also have to maintain the trees for the period specified in the notice (which cannot exceed 10 years). The issue of a court order in these circumstances would also enable the courts to issue penalties using powers already available if there was a failure to comply with that order.

123. This ensures that where a person does not comply with notices served by NRW as the forestry authority, the trees or woodland lost is replaced through the court order to restock.

124. When the courts consider a court order to restock, they should have regard to the UK Forestry Standard, the interests of good forestry and agriculture as well as the need to promote the growing and maintenance of trees in Wales.

125. The number of cases per year that NRW bring to court is not expected to increase. However, if NRW brings a case to court then a court order to restock would carry weight to ensure that restocking takes place, under threat of further potential penalties. The ability of NRW to apply to the court for an order to restock would also act as a powerful deterrent to felling without a licence, not complying with notices to restock or with restocking conditions of felling licences. Compliance with a court order to restock would help to maintain existing woodland cover in Wales at a time when expansion is needed to meet our commitments in relation to climate change and biodiversity recovery.

126. Once the legislative proposal (including enforcement) has been formulated in a more detailed manner following consultation responses, detailed consideration will be given to how the legislation should be drafted to ensure that the proposal is within the Senedd's competence

Consultation questions

23. Do you agree that courts should be able to issue a court order to restock in Wales in addition to financial penalties? Please explain your view.

24. Do you agree that courts should be able to issue a court order to restock for an alternative area of land (where the felled site can no longer be replanted e.g. through sale or site conditions have been changed)? Please explain your view.

Impacts and considerations

127. This proposal would help ensure that unlawful felling does not result in permanent woodland loss. A court order to restock would move the focus beyond punishment alone and towards restoration. It would support nature recovery, landscape protection, habitat connectivity, carbon storage and community benefit by ensuring trees are replanted and maintained. It would also reduce any financial incentive to remove woodland unlawfully where a fine may be seen as an acceptable cost of development or land value uplift.

Enable restocking notices issued under section 17Aand enforcement notices issued under section 24 to be registered as land charges

128. This section sets out a proposal to amend the Act to enable restocking notices issued by NRW under section 17A, and enforcement notices issued under section 24(2) to be registered as land charges on the Local Land Charges Register.

129. These proposals would make restocking and enforcement notices visible during property searches when a person is considering buying land. This would improve compliance by ensuring obligations are clear to purchasers, and reduce the risk that enforcement is undermined by changes in land ownership.

Current law

130. Section 17 of the Act provides the penalty for felling without a licence. This section sets out that felling trees without the authority of a licence where it is required, is unlawful and is a criminal offence, subject to an unlimited fine.

131. Where a person has committed an offence under section 17, NRW as the appropriate forestry authority, has the power to issue a restocking notice. This requires the person on whom the notice is served to restock the land with trees and maintain that land with trees under the practices of good forestry. If the person fails to comply with the restocking notice, section 17C enables NRW to issue an

enforcement notice under section 24. Section 24 (2) of the Act also gives NRW the power to serve an enforcement notice to comply with works set out in a felling licence e.g. a restocking condition. If a notice issued under section 24 is not complied with, an offence is committed, punishable by an unlimited fine. The primary focus is on replanting the trees rather than prosecution and fines, to ensure the woodland is replanted as a habitat/timber resource and the associated ecosystem benefits provided are reinstated.

The problem

132. If a restocking or enforcement notice requiring restocking is not complied with and the land is transferred to a new owner, the new owner may not be aware. The notices are not required to be registered on the Local Land Charges Register and therefore do not come to light when a purchaser carries out searches of the Local Land Charges Register as part of the purchasing process.

133. This means woodland restocking can be undermined by changes in land ownership. There have been many situations where NRW has not been able to enforce compliance with notices for these reasons. This can result in a permanent loss of woodland or trees and the associated ecosystem and social benefits they provide.

134. For example: A site of around 0.5 hectares was unlawfully felled which was a Site of Importance for Nature Conservation (SINC), located adjacent to an Ancient Semi Natural Woodland. A section 17A restocking notice was served prior to a subsequent conviction for illegally felling the site. However, the site was immediately levelled, prepared for development and it was sold without the restocking notice being complied with. . The site is currently covered in a layer of waste and without tree cover.

The proposed change

135. The proposal is to enable restocking notices issued under section 17A and enforcement notices issued under section 24 to be registered as local land charges. These registers are held and maintained by local authorities but are being gradually migrated across to HM Land Registry for both England and Wales.

136. In England, these types of land charges have already been enabled through amendments to the Act, inserting a new section (1B) into section 17A and a new subsection (6) into section 24. A similar provision is needed for Wales.

137. The effect of registering the relevant notices as land charges is that notice will be given to any buyer, and anyone who inspects the land register, that the buyer will acquire the land subject to the local land charge unless it is removed. It is envisaged that this will act as a deterrent to unauthorised felling prior to sale and the practice of transferring landownership to avoid compliance with notices. It will help ensure that notices are complied with, either by the previous or new owner.

138. The proposal will help to maintain the extent of Welsh woodland and the associated ecosystem/environmental benefits.

How this would work in practice

139. When NRW serves a section 17A restocking notice or section 24 enforcement notice, they would also apply to the Land Charges Register to register these notices as land charges.

140. Local land charges will give notice to any buyer, and anyone who inspects the land register, that the buyer will acquire the land subject to the local land charge unless and until it is removed. There would no longer be cases where a landowner purchased without knowing about the notices. Following the restocking deadline included in a notice or an order, steps would be taken to inspect and ensure compliance with the requirements. If the requirements of the notice or order are complied with, steps would be taken to cancel the local land charge.

141. As a result, individuals would not benefit from increased land prices resulting from non-compliance with restocking or enforcement notices, as new purchasers would be aware in advance of purchase. NRW will be better able to enforce restocking regardless of changes in ownership, ensuring that unlawfully felled woodland is reinstated alongside the environmental and community benefits they provide.

142. Once this legislative proposal has been formulated in a more detailed manner following consultation responses, detailed consideration will be given to how the

legislation should be drafted to ensure that the proposal is within the Senedd's competence.

Consultation questions

25 Do you agree that restocking and enforcement notices to restock should be registered as local land charges, so they are visible during property searches? Please explain your view.

26 Are there other steps you think could be taken to ensure compliance with restocking and enforcement notices and strengthen the link between enforcement and woodland restoration?

Impacts and considerations

143. Registering restocking notices and enforcement notices as land charges would give notice that any buyer would acquire the land subject to the local land charge making the notices visible to buyers or anyone who inspects the land charges register. This would help ensure woodland restoration duties cannot be avoided through changes in ownership. It would also strengthen the link between enforcement and practical restoration, helping to reinstate woodland benefits for nature, climate, local landscapes and nearby communities.

Consideration of appropriate safeguards

144. Each of the proposals in this section are designed to stop unlawful loss, secure restocking, improve transparency for land transactions and support better decisions on felling licence applications. In relation to each of the proposals, a right to make representations or a right of appeal may be an important means of ensuring that the proposals are balanced and fair, and compatible with obligations arising under the European Convention on Human Rights. In some cases, a right to compensation may also be appropriate.

145. Consideration is being given to appropriate rights to make representations, appeal processes and rights to compensation which will take into account any existing rights and powers in legislation and any other procedural safeguards in the decision-

making process in each proposal. Fairness will be assessed by considering the processes as a whole.

Consultation question:

27 Do you have views on what rights of appeal or other safeguards would be required in relation to each of these proposals? Please explain your view.

Woodland creation and restoration

146. Woodland creation and restoration contribute to at least one of the following objectives: climate action, nature recovery, sustainable farming, rural resilience and community benefit. The aim is to prioritise native woodland creation, restoration and mixed woodlands, while protecting high-quality agricultural land and avoiding large-scale planting that is poorly designed, poorly managed or without due consideration for the communities where the planting is taking place.

147. Planting trees and increasing woodland cover are positive actions Wales can take now to respond to the climate and nature emergencies. Trees capture and store carbon, help reduce flooding, support biodiversity, improve air quality, cool towns and cities, and provide places for recreation, volunteering, health and wellbeing. Well-designed woodland can also support rural jobs, skills, local supply chains and a stronger low-carbon wood economy.

148. However, woodland creation must be done in the right place, at the right scale and for the right reasons. Poorly designed schemes, projects without proper community engagement, or planting that displaces important agricultural production or damages priority habitats can undermine the very outcomes woodland creation is intended to support.

149. There is competition for the finite land resource available for tree planting and much of the land available will have some sort of ‘constraint’ on it such as priority habitat or as a result of deep peat. There is also concern that woodland creation could take place on high-quality agricultural land, reducing food-production potential. Agricultural land quality in Wales is classified under the Agricultural Land Classification (ALC) system. The ALC system is a capability-based framework that

evaluates how physical factors such as soil quality, climate and topography limit or enable the range and reliability of cropping options, effectively measuring the flexibility of land to support different types of agricultural production. The Best and Most Versatile agricultural land (BMVAL) – that graded as excellent (Grade 1), very good (Grade 2) or good (Grade 3a) – represents the most flexible, productive and resilient land resource, capable of supporting a wide range of food and non-food crops with relatively few physical limitations, and therefore of long-term strategic importance for sustainable land use and food production. BMVAL in Wales is made up of ALC Grade 1 accounting for 0.2% of Wales, and ALC grades 2 and 3a accounting for c.15% of Wales. Whilst planning policy provides a clear framework for the built environment, there is currently no explicit restriction on woodland creation on BMVAL, thus providing landowners with flexibility over where trees are planted.

150. We want to ensure the right tree is established in the right place, for the right reasons. This means increasing tree cover while protecting valued landscapes, community interests, biodiversity and nationally important agricultural land. It also means supporting tree and hedge planting that complements farming, including agroforestry and small-scale forestry, rather than displacing productive land. A balanced approach can help Wales secure the environmental, economic and social benefits of woodland while supporting food production, rural communities and sustainable land use.

151. Forestry practices continue to adapt and improve. The UK Forestry Standard (UKFS) is the technical standard for sustainable forest management in the UK. It sets out the approach of the four governments of the UK, defines the requirements and provides guidance for foresters on how to practise sustainable forest management in the UK.

152. Poorly designed, monoculture, single-aged, plantations are not compliant with UKFS, which sets out the requirement to maintain or establish a diverse composition across the forest management unit, so that no more than 65% of the area is allocated to a single species and must incorporate a minimum of 5% native broadleaved trees or shrubs, 10% other tree species and 10% open ground, or ground managed for biodiversity as the primary objective.

153. Our woodland creation grants go further, requiring a minimum of 25% native broadleaved trees and often going beyond the UKFS requirements depending on the planting option chosen.

154. The UKFS also highlights the importance of plans being better informed by local knowledge and the experience and understanding of those using the forest, land, or living close by and setting out the requirement to provide appropriate opportunities to involve stakeholders and the public in the development of management and creation plans.

155. To help with our policy making decisions, we are using this consultation to gather views and evidence on whether our current processes provide sufficient safeguards to ensure that our communities are protected from inappropriate planting and if not, what other measures you would like to see in place.

156. We would also like your views on whether you would like to see any additional measures put in place to protect high-quality agricultural land.

157. Your views on these matters will inform our approach to woodland creation and restoration, including whether legislative provision in a Bill is required.

Consultation Questions

28 Do our current processes provide sufficient safeguards to ensure that our communities are protected from inappropriate planting?

29 If your answer to the previous question was no, what other measures would you like to see put in place?

30 Would you like to see any additional measures put in place to protect high quality agricultural land?

Waste

158. Keeping resources in use and avoiding waste plays a central role in delivering cleaner places, healthier ecosystems and a more sustainable economy in Wales**.** It reflects our commitment to transitioning to a circular economy and is a key part of our developing Climate and Nature Action Plan.

159. Fly tipping, littering and unsustainable patterns of consumption continue to have direct and visible impacts on communities, local environments, businesses and public services across Wales. These activities can undermine the quality of local places, impose clean-up costs on public services, affect tourism, local pride and community wellbeing, while also harming land, water and wildlife.

160. Wales has already established a strong framework to improve resource management and tackle environmental harm; however evidence suggests that aspects of the current system are becoming less effective in responding to evolving behaviours, operational challenges and enforcement needs. Enforcement can be difficult where offences are hard to prove, penalties may no longer act as a sufficient deterrent, or regulatory tools do not reflect current costs and behaviours.

161. There is therefore a clear case to strengthen and modernise the legislative framework for waste and resource management in Wales. These proposals seek to ensure that Wales has a modern and effective framework for tackling waste-related harm. By strengthening enforcement where it is needed and updating existing measures, they will help protect our communities, environment and natural resources for the benefit of current and future generations.

Littering from vehicles

What is the main issue?

162. Dealing with roadside litter can be difficult due to its location and it is often dangerous to remove, particularly on motorways and busy trunk roads. It sometimes requires lane closures, making it a costly and disruptive process. Consequently, it often accumulates over time making areas unsightly, posing a risk to the

environment and wildlife and negatively impacting local economies, especially those reliant on tourism.

163. Whilst gathering data on roadside litter can be challenging, surveys carried out by Keep Wales Tidy in 2025 found that litter was present on nearly every main road in Wales. Commonly littered products included confectionery packaging (81% of main roads surveyed), drinks containers (72% of main roads surveyed) and fast-food litter (67% of main roads surveyed). The environmental and economic impact of this type of litter is an ongoing concern for the public and the Welsh Government receives frequent correspondence and complaints on this issue.

164. Local Authorities in Wales have a statutory duty to ensure highways, public walkways and recreational areas, under their direct control, are kept clear of litter. Littering, including from a vehicle, is a criminal offence under section 87 of the Environmental Protection Act 1990 (EPA 1990) and can lead to a criminal prosecution and fine of up to £2,500. Under section 88 of EPA 1990, if an authorised officer of a local authority has reason to believe someone has committed an offence under section 87, that person can be given the opportunity of discharging liability by payment of a Fixed Penalty Notice (FPN). If the FPN is not paid the offender can be prosecuted through the criminal courts and, if found guilty, they would have to pay a more substantial fine than the FPN. They would also acquire a criminal record.

165. However, local authorities have reported that witnessing, identifying and proving the offence of littering from vehicles, particularly when they are moving, is difficult. This can be particularly problematic where there is a passenger (or passengers) in the vehicle, and the officer is unable to determine who has committed the offence. Currently, the registered keeper is not legally required to identify who threw the litter from the vehicle, and so pursuing enforcement action further can prove difficult. An additional commonly cited barrier to enforcement is the time and resources required to gather sufficient evidence to take action against those responsible for the offence.

166. To address these challenges in England and Scotland, the UK Government and Scottish Government respectively have introduced powers that allow enforcing

authorities to issue penalties to the registered keeper of a vehicle in relation to littering under section 87 of the EPA 1990 from the vehicle. These penalties (a penalty notice in England and civil penalty charge notice in Scotland) are civil fines which, unlike a criminal penalty such as a FPN, do not carry the risk of criminal prosecution. By issuing the penalty to the registered owner of the vehicle, they essentially bear responsibility for the action of everyone inside the vehicle.

167. In 2017 the then Welsh Government sought views on introducing similar powers in Wales to England and Scotland. Whilst there was strong support for this approach, a decision was made not to progress with the proposed Bill which would have brought in those powers. Since then, successive Welsh Governments have continued to explore ways of reducing road litter, for example by introducing wider legislation to ban or restrict commonly littered single-use plastic products. However, we acknowledge that local authorities continue to make the case for effective enforcement tools to tackle this issue.

168. To help with our policy making decisions we are using this consultation to gather views and evidence to determine whether the Welsh Government should look again at bringing forward in these powers in Wales. We would, therefore, welcome your views on the following questions.

Consultation questions

31 Do you support the introduction of legislation that would allow the registered owner of the vehicle to be issued with a civil penalty, even if they were not responsible for the littering offence?

32 Do you have evidence to show the effectiveness of issuing civil penalties to tackle littering from vehicles?

33 Do you have data/evidence on the economic impacts of littering from vehicles/ roadside litter?

34 Do you have data on the environmental impacts of littering from vehicles/ roadside litter?

35 Do you have data on the social impacts of littering from vehicles/roadside litter?

The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023

169. The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 ("the SUPP Act") forms an important part of the wider framework to move Wales towards a circular economy. It supports broader environmental ambitions by helping to reduce pollution, protect natural resources and encourage a shift towards more sustainable ways of producing and using goods. In doing so, the SUPP Act contributes to our wider ambition to protect and improve the environment as a foundation for people's health, resilient communities and a sustainable economy, including supporting the transition to more responsible production and consumption.

170. The SUPP Act introduced bans or restrictions on commonly littered single-use plastic items, making it an offence to supply them in Wales, aiming to reduce plastic pollution, encourage reuse or the production of more sustainable alternatives, and provides powers to amend the Schedule over time to respond to emerging evidence and environmental priorities.

Change to section 4 of the SUPP Act - Powers to amend duties relating to reporting requirements

171. Section 4 of the SUPP Act includes a reporting duty on the Welsh Ministers intended to provide transparency about potential future changes to the list of prohibited single-use plastic products and exemptions. This is designed to give businesses and stakeholders early notice of possible changes, supporting preparation and enabling effective delivery of environmental policy.

172. This section proposes an amendment to section 4(2) of the SUPP Act. The change is required as the current reporting requirement under this section no longer operates as intended and requires updating to ensure it remains effective and fit for purpose.

Current law

173. The Schedule to the SUPP Act sets out the single use plastic products that cannot be used in Wales (prohibited single use plastic products). It also sets out exemptions to prohibition.

174. Section 3 of the SUPP Act provides the Welsh Ministers with the power to make regulations that amend that Schedule. This means the Welsh Ministers may, amongst other things, add or remove a product included in column 1 of the table included in the Schedule. They may also make regulations that add or remove exemptions to products already provided for in that table.

175. Section 4(1) provides that the Welsh Ministers must, when considering the exercise of their powers under section 3 to amend the Schedule, consider their duty to promote sustainable development under section 79(1) Government of Wales Act 2006 (GOWA) and to carry out sustainable development under the Well-being of Future Generations Act 2025 (the WBFG Act).

176. Section 79(2) of GOWA places a duty on the Welsh Ministers to publish, an annual report on sustainable development. This report sets out the arrangements made by the Welsh Ministers during the financial year in pursuit of the sustainable development principle.

177. Section 4(2) of the SUPP Act provides that in this report; the Welsh Ministers must explain their consideration of any plans to exercise the powers in section 3 of the SUPP Act. In this report they must also include their considerations whether to add wet wipes and sauce sachets and their consideration of whether to remove an exemption from, or amend an exemption in respect of cups, takeaway food containers and lids for these products that are not made of polystyrene.

Problem with the current law

178. Section 4 includes a reporting duty on the Welsh Ministers intended to provide transparency about potential future changes to the list of prohibited single-use plastic products and exemptions. This is designed to give businesses and stakeholders early notice of possible changes, supporting preparation and enabling effective delivery of environmental policy. In effect it is intended to provide forward-

looking information about the Welsh Ministers' consideration of whether to exercise their powers under section 3 of the Act to add or remove prohibited single-use plastic products, or to add or remove an exemption from the Schedule.

179. However, the report required under section 79(2) of GOWA is primarily focused on retrospective reporting, setting out what the Welsh Ministers have done during the previous financial year to promote sustainable development.

180. In addition, following changes made by the Well-being of Future Generations (Wales) Act 2015, a standalone sustainable development report is no longer produced. In practice, reporting under section 4(2) is now delivered through the Programme for Government Annual Report, which focuses on delivery against well-being objectives.

181. As a result, there is a mismatch between the purpose of the reporting duty in section 4(2) of the SUPP Act and the mechanism through which it is delivered. The current reporting framework does not provide a clear or timely way to signal potential future changes to the Schedule.

The proposed change

182. We propose to amend section 4(2) to remove the requirement to report through section 79(2) of GOWA.

183. Instead, the Welsh Ministers would be required to publish a report when they are considering making changes to the Schedule, which could take the form of a written statement.

184. This would tie the timing of the reporting duty directly to policy development and ensure it operates as intended, providing early, clear and forward-looking information to businesses and stakeholders.

185. We do not propose to change section 3(2) of the SUPP Act. It will remain the case that the Welsh Ministers must undertake a consultation before making regulations to amend the Schedule.

How this would work in practice

186. The proposed amendment does not change the underlying policy aims of the SUPP Act. It improves how the Act operates in practice by ensuring that reporting arrangements are aligned with decision-making.

187. The revised approach would provide advance notice of potential changes, allowing businesses and stakeholders more time to prepare, plan investment decisions and adapt to more sustainable alternatives. This supports a managed transition towards reduced reliance on single-use plastics, while maintaining clarity and fairness for those affected.

188. During the passage of the SUPP Act, it was recognised that early visibility of potential changes would be important in supporting preparedness. This proposal ensures that the reporting duty continues to fulfil that purpose.

Consultation questions

36 Do you agree that section 4(2) of the Environmental Protection (Single use Plastic Products) (Wales) Act 2023 should be amended so that the reporting mechanism works as intended? Please explain your view.

Impacts and considerations

189. This proposal is a targeted improvement to how the SUPP Act operates in practice, rather than a change to its underlying policy intent. The core objective of the Act, to reduce plastic pollution and support a shift towards more sustainable materials and behaviours. This remains unchanged.

190. The proposed amendment strengthens the effectiveness and usability of the legislative framework by ensuring that reporting arrangements support timely and transparent communication with businesses and stakeholders. By aligning the reporting duty more closely with future decision-making, it enables earlier visibility of potential changes and supports better preparation, investment planning and supply chain adjustment.

191. This reflects a wider approach to ensuring environmental legislation in Wales is **cl**ear, workable and responsive to change, enabling Ministers to take proportionate action to prevent environmental harm and support more sustainable resource use, in line with circular economy objectives.

192. In practice, the change improves governance and engagement, rather than introducing new regulatory burdens. It supports businesses and stakeholders by providing clearer forward signals, helping them to plan ahead and adapt in a way that supports both environmental outcomes and economic resilience.

193. There are no changes to the duties on the Welsh Ministers under section 3 of the SUPP Act, nor to the consultation requirements that apply before regulations are made. The proposal does not alter the scope of prohibited products or exemptions.

194. Overall, the amendment ensures that the SUPP Act continues to operate as intended, supporting environmental outcomes while enabling early, collaborative engagement with those affected and reinforcing a preventative, forward-looking approach to environmental protection.

Environmental Regulations

195. The illegal disposal of waste affects people directly. Fly-tipping damages local places, undermines legitimate waste businesses, creates costs for public services, affects tourism and local pride, and can harm land, water and wildlife. The proposals in this section are about keeping penalties meaningful, so they continue to deter irresponsible behaviour and support those responsible for enforcement and clean-up.

196. Although these regulations would be taken forward separately from the Bill, they sit within the same overall approach: ensuring environmental law remains current, practical and capable of protecting communities and the environment. Updating penalty levels is one way of ensuring that enforcement tools continue to reflect the real costs and impacts of waste offences.

Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017 and Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019

Amendment powers for fly-tipping fixed penalties

Current law

(a) Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017

197. Prior to introduction of the Regulations the only option available to local authorities in dealing with small-scale fly-tipping offences was to prosecute. Given the high volume of these offences, prosecution was considered resource intensive for local authorities and a burden on the court system. Subsequently, the Welsh Government used powers under section 2(2) of the European Communities Act 1972 to amend the Environmental Protection Act 1990. This enabled local authorities to issue FPNs to be able to deal more effectively and proportionately with these types of fly-tipping offences.

198. Local authorities can set their FPN between £150 and £400, with £200 the default if no amount is set. Local authorities can offer a reduction (no less than £120) if the FPN is paid within 10 days of the date of the FPN. Receipts from the FPNs can be used to help contribute to fly-tipping enforcement and clear-up costs.

(b) Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019

199. The Regulations allow local authorities and Natural Resources Wales (NRW) to issue a FPN to householders who breach their waste duty of care. This is a duty placed on a householder to ensure they, as is reasonable in the circumstances, pass their household waste to an authorised person.

200. The fixed penalty amount is set at £300 across Wales and a discounted payment of £150 can be made in 10 days of the issue of the FPN. Local authorities can retain the money received from FPNs to help contribute to the enforcement and clear-up costs of fly-tipping. Receipts from FPNs issued by NRW are paid to the Welsh Ministers.

201. The Welsh Ministers have powers in section 69(5) of the Environment Act 2021 to amend the amount of both FPNs, although these powers are not yet in force.

The problem

202. In Wales, as elsewhere in the United Kingdom, there are increasing concerns about the level of fly-tipping and the associated environmental, economic and societal impacts it has. Whilst we recognise most people dispose of their waste responsibly, unfortunately a minority continue to ignore the law and wilfully blight our communities. Fly-tipping not only undermines legitimate waste businesses it can deter inward investment and tourism to an area and negatively affect people's wellbeing and pride in place. It also imposes an unnecessary financial burden on those required to clean it up and can result in materials being lost from the recycling, repair and reuse cycle.

203. To help tackle the issue the Welsh Government has provided enforcement tools to local authorities and NRW, including those covered by this consultation. Whilst there is no obligation on local authorities to exercise these powers, more than 1,500 fixed penalty notices were issued by local authorities during the reporting period of 2024-25. However, feedback from local authorities suggests that, due to inflation and other rising costs, the current levels of FPNs are no longer considered sufficient to deal with the increased costs associated with clearing fly-tipping nor do they provide a sufficient deterrent. The latter is particularly relevant where the amount set by the local authority may be lower than the cost of lawful waste disposal.

Elsewhere in the UK

204. The Welsh Government is also aware of changes in the upper limits in England where local authorities now have the option of setting FPNs for unauthorised deposit of waste offences between £150 to £5,000 and household duty of care offences between £150 and £600. If an English local authority does not a set an FPN level, then the pre-existing default level applies. Consequently, some local authorities have raised concerns this may encourage cross-border fly-tipping if there is a disparity between the financial penalty amounts.

205. In Scotland, the maximum FPN is £500 for unauthorised deposit of waste (fly-tipping) and £200 for household duty of care following an increase implemented through the Scottish Government's 2023/24 enforcement reforms.

The proposed change

206. The Welsh Government is now considering whether to increase the upper limit of the existing fly-tipping FPN and increase the fixed amount for the household waste duty of care FPN using the powers available under section 69 of the Environment Act 2021.

207. When setting these amounts the Welsh Government acknowledges that any penalty should be proportionate. We recognise there is also a risk of an offender choosing not to accept or pay a fixed penalty and instead defend the case in court (albeit at the risk of being liable for a potentially higher penalty and costs on conviction). Since issuing a FPN is an alternative to prosecution, if an alleged offender does not pay a fixed penalty, the enforcing authority must be prepared to prosecute them for the original offence. Failure to follow up on unpaid fixed penalty notices will undermine their effectiveness as an enforcement tool.

208. However, given the ongoing financial burdens being placed on enforcing authorities in dealing with fly-tipping incidents and to ensure there is no disparity in how the offences are dealt with elsewhere in the United Kingdom, we propose the following changes:

Table 1 - Proposed changes for fly-tipping incidents

Offence	Default Penalty	Minimum full penalty	Maximum full penalty	Minimum discount penalty
Fly-tipping (unauthorised deposit of waste)	**Maintain** at £200	**Maintain** at £150	**Increase** to £5,000 (from £400)	**Maintain** at £120

Household waste duty of care	**Increase** to £400 (from £300)	**Increase** to £400 (from £300)	**Increase** to £400 (from £300)	**Increase** to £200 (from £150)

How this would work in practice

209. Local authorities would continue to follow our guidance on the use of fixed penalty notices for environmental offences and submit annual data to the Welsh Government on the use of FPNs. As previously noted, there is no obligation on authorised authorities to exercise these powers or to prosecute for the original offence in the event of non-payment of the penalty.

210. Subject to the consultation response, the only change would be an increase in the financial penalties.

Consultation questions

37 Do you agree that the fixed penalty levels in the Unauthorised Deposit of Waste (Fixed Penalty) (Wales) Regulations 2017 and the Household Waste (Duty of Care (Fixed Penalty)) (Wales) Regulations 2019 should be increased? Please explain your view.

38 Do you agree with the proposed changes to the fixed penalty notices? If not, please explain your views and proposed amounts.

39 Are our assumptions on costs and savings in the Regulatory Impact Assessment correct for increasing the fixed penalty notice? If not, what is missing, and are what are the costs or savings of those missing items/activities and for those listed.

40 Do you have any information that could be useful to help inform the impact assessments that have been prepared to support this proposal?

Impacts and considerations

211. Increasing fixed penalties for fly-tipping and household waste duty of care offences would help ensure they remain an effective deterrent. It would support local authorities and Natural Resources Wales in tackling irresponsible waste disposal,

help recover some enforcement and clean-up costs, and reinforce the message that illegal waste activity harms communities, legitimate businesses, public finances and the environment.

212. It is likely the introduction of increased costs will lead to a small decrease in prosecutions for these offences at Magistrates' Courts. This will save resources of both local authorities and HM Courts & Tribunals Service. At the same time, we expect the proposal will result in a small number of new cases being prosecuted for the original offence in the Magistrates' Courts because of non-payment of the penalty and there may be a small number of offences prosecuted under new section 33ZA (9) of the Environmental Protection Act 1990 (for giving false details). Overall, we believe there should be a net decrease in the caseload of HM Courts and Tribunals Service.

213. The proposals are not expected to result in increased administrative burdens for local authorities as existing guidance on the use of fixed penalty notices for environmental offences will continue to apply.

214. We calculate those local authorities which decide to issue FPNs will benefit from a saving in overall enforcement and clearance costs.

215. Local authorities will still have the option to prosecute, for example in relation to more serious, large-scale cases of fly-tipping.

216. Consideration will need to be given on how to communicate the message on any increases to the maximum amounts for FPNs for irresponsible disposal of waste and to support local authorities in conveying this message to their residents.

Next steps

217. We will consider responses to this consultation when preparing the regulations.

Biodiversity and resilience of ecosystems duty - Environment (Wales) Act 2016

218. Biodiversity plays an essential part in the broader response to climate change and supports the creation of resilient communities, sustainable food systems, climate resilience and long-term prosperity for Wales. This section considers how the current legislative framework for biodiversity planning operates in practice and where it could be improved. While the Environment (Wales) Act 2016 establishes important duties on public authorities to maintain and enhance biodiversity, changes made to the Act have introduced overlapping consultation requirements. The proposal set out below seeks to simplify the framework by removing duplication, ensuring the legislation remains clear, consistent and focused on effective delivery, without weakening the expectation of public engagement.

Repeal section 6(6A)(b) - Biodiversity and resilience of ecosystems duty

219. This section sets out a proposal to repeal section 6(6A)(b) of the Environment (Wales) Act 2016 which was inserted during the passage of the Environment (Principles, Governance and Biodiversity Targets) (Wales) Act 2026.

220. The proposal does not reduce the importance of public engagement on biodiversity. Its purpose is to remove duplication and avoid confusion, while retaining the requirement to apply the principles of sustainable management of natural resources. Those principles already require collaboration, public participation and the use of evidence when preparing the biodiversity plan.

Current Law

221. Section 6(1) of the Environment (Wales) Act 2016 places a duty on public authorities (including the Welsh Ministers) to seek to maintain and enhance biodiversity in the exercise of their functions in relation to Wales and, in so doing promote the resilience of ecosystems, so far as is consistent with the proper exercise of those functions. Section 6(6) places a duty on public authorities to prepare and publish a plan setting out what they propose to do to comply with subsection (1).

222. Section 6(6A)(a) requires the Welsh Ministers, when preparing their plan under subsection (6), to consult with the Office of Environmental Governance Wales ("the OEGW") and apply the principles of sustainable management of natural resources.

223. Section 6(6A)(b) requires the Welsh Ministers, when preparing their plan under subsection (6), to also consult with such persons or bodies as the Welsh Ministers consider have an interest in matters relating to biodiversity in Wales and members of the public in Wales.

224. In accordance with section 6(6A)(c), when the plan is published, the Welsh Ministers are under a further duty to publish a report summarising the consultation undertaken and the representations received as part of that process.

The problem

225. Section 6(6A)(b) duplicates consultation requirements that already apply through the application of the sustainable management of natural resources principles.

226. Section 4 of the 2016 Act sets out the principles of sustainable management of natural resources. The principles include:

    c. promote and engage in collaboration and co-operation;

    d. make appropriate arrangements for public participation in decision-making;

    e. take account of all relevant evidence and gather evidence in respect of uncertainties;

227. These principles amount to and are treated as imposing a duty to consult. Therefore, the provision in section 6(6A)(a) which applies the principles of sustainable management of natural resources when preparing a biodiversity plan under section 6 means Welsh Ministers are effectively already under a public consultation duty when preparing that plan and the provision in section 6(6A)(b) is unnecessary.

228. The insertion of section 6(6A)(b) also means that section 6 now has two different, but essentially duplicative, consultation requirements, which is inconsistent with the approach elsewhere in the 2016 Act. For example, there is no equivalent provision to section 6(6A)(b) in section 6D, which concerns the biodiversity target setting process, or section 9 of the 2016 Act, which concerns the Welsh Ministers' national natural resources report, both of which otherwise contain comparable consultation

provision to section 6(6A). This may cause some confusion with the effect of applying the principles of sustainable management of natural resources elsewhere in Part 1 of the 2016 Act.

The proposed change

229. We propose to repeal subsection (6A)(b) of section 6 of the Environment (Wales) Act 2016, to remove the duplicative duty to consult.

230. Removing subsection (6A)(b) of section 6 would retain the duty to apply the principles of sustainable management of natural resources while avoiding duplication and potential confusion about how consultation requirements should be interpreted.

231. There will be no change to the way consultation is carried out on the biodiversity plan under section 6 – there will still be a public consultation and consultation with the OEGW.

How this would work in practice

232. If made, the change would remove the express public consultation duty in section 6(6A)(b). However, the duty to apply the sustainable management of natural resources principles would remain, and thus so too the effective duty to consult the public, through section 6(6A)(a)(ii).

Consultation questions

41 Do you agree that section 6(6A)(b) of the Environment (Wales) Act 2016 should be repealed? Please explain your view.

Impacts and considerations

233. This proposal is intended to simplify the legislation without weakening engagement. It would remove a duplicative duty, retain meaningful consultation through the sustainable management of natural resources principles, and make the framework clearer for public authorities, stakeholders and communities. Clearer duties support better biodiversity planning and help ensure effort is focused on delivery rather than navigating overlapping legal requirements.

Power to modify specified regulations made under section 2(2) European Communities Act 1972

234. A significant part of environmental law in Wales was originally made by regulations under section 2(2) of the European Communities Act 1972. This matters because those regulations cover important areas such as water, habitats, waste, plant health, fisheries and environmental protection.

235. The proposal is to give the Welsh Ministers a regulation-making power to modify specified regulations made under section 2(2) and listed in the Bill. “Modify” includes amending, revoking or replacing those regulations. The purpose is to ensure that the Welsh Ministers have the legislative tools needed to maintain high environmental standards, respond to new evidence and policy priorities, and act in a timely way where changes are needed.

236. Without such a power, Wales may be left with important regulations relating to the environment that are difficult to amend, even where change is needed to protect nature, improve water quality, support sustainable management of resources or reflect other Welsh policy choices. That would risk slowing delivery and placing unnecessary pressure on future primary legislation.

Background and current law

237. Prior to the UK’s exit from the EU, section 2(2) of the European Communities Act 1972 conferred a very broad delegated power to make secondary legislation to implement, in Wales, and throughout the UK, EU obligations and to deal with matters arising from EU law. The power could be exercised by Ministers of the Crown (Ministers in the UK government) or other authorities designated in legislation called an Order in Council.

238. Section 58B of the Government of Wales Act 2006 conferred an automatic right on the Welsh Ministers to make regulations under section 2(2) in respect of matters within the legislative competence of the Senedd. Such exercise of the powers by the Welsh Ministers was not conditional on prior designation in an Order in Council prepared by the UK Government. Matters outside legislative competence continued to require designation.

239. Since 1972 a significant number of regulations have been made under section 2(2) in relation to Wales, by the Welsh Ministers and also by Ministers of the Crown. Some of the regulations were made in reliance on section 2(2) only, and others in combination with other powers. There is a large body of section 2(2) regulations that relates broadly to the "environment".

240. The European Union (Withdrawal) Act 2018 repealed the European Communities Act 1972, and also section 58B of the Government of Wales Act 2006, with the result that no new regulations can be made under section 2(2).

241. As the repeal of the European Communities Act 1972 removed the original power to make, amend or revoke regulations made under section 2(2), sections 11 to 15 of the Retained EU Law (Revocation and Reform) Act 2023 (the "2023 Act") created powers allowing Ministers, including the Welsh Ministers, to restate, clarify, revoke or update certain categories of legislation including regulations made under section 2(2), and to make related provision.

242. With the exception of the powers under section 15, those powers were temporary and expired on or before 23 June 2026.

243. Section 15 is not time-limited and enables section 2(2) regulations (amongst other things) to be updated to take account of changes in technology or developments in scientific understanding. This is a narrow category.

The problem

244. Consequently, following the UK's exit from the EU, regulations made under section 2(2) can only be amended:

    a. **via new primary legislation** (provided it is within the legislative competence of the Senedd to make the amendments). In our view, resorting to primary legislation every time we need to make an amendment to section 2(2) regulations (assuming no suitable existing powers are in place to amend using secondary legislation) is unsustainable. It has the potential to take up a great deal of Senedd time. It also poses difficulty if amendments need to be made urgently, as a suitable legislative vehicle needs to be found and, in general, the Bill process is slow;

b. **if there is an existing power to modify via secondary legislation**. A number of section 2(2) regulations do not have a power to modify (other than section 15 of the 2023 Act); or

c. **in exercise of the power in section 15 of the 2023 Act** – which limits changes to reflect technical or scientific developments.

245. These limitations are undesirable as they stifle policy development and progress and have the potential to cause wide ranging, negative impacts for the protection and improvement of the environment in Wales, through barriers to making amendments to regulations.

246. This is already posing practical difficulties. There are a number of key regulations that we cannot amend (save in exercise of the power in section 15 of the 2023 Act) without making provision in primary legislation. This includes the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

The proposed change

247. The proposal is to take a regulation making power in the Bill that enables the Welsh Ministers to modify specified section 2(2) regulations in relation to Wales. The regulations within scope of the proposed power relate broadly to the environment, including environmental protection, water, plant health, fisheries and waste. The intention is for the regulations to be listed in the Bill (subject to a possible power to amend, discussed below).

248. This includes regulations made in combination with other powers, such as the Conservation of Habitats and Species Regulations 2017. In that case, the proposed power will be available insofar as regulations were made under section 2(2) (and any changes affecting provisions made under other powers would be made under those powers). It also includes regulations that apply in relation to Wales and also England, Scotland and Northern Ireland, such as the Conservation of Habitats and Species Regulations 2017. As noted above, the proposed power would enable changes that apply in relation to Wales.

249. The policy intent is for the regulation making power to be wide enough to enable the Welsh Ministers to make changes to the regulations listed so that they reflect the Welsh Ministers' policy objectives/priorities. This includes power to amend, revoke and replace regulations. We propose that the power would allow any regulations that are revoked and remade to be amended subsequently.

250. This is a very broad power which goes significantly beyond the scope of previous section 2(2) powers. Pre EU Exit, the Welsh Ministers were bound by underlying EU policy when making or amending section 2(2) Regulations. We are of the view this broader power is justified as, following the UK's exit from the EU, the Welsh Ministers need the power to modify section 2(2) regulations so that they reflect the Welsh Ministers' policies going forward.

251. Consideration was given as to whether it might be appropriate to further extend the proposed regulation making power to include within scope other forms of "assimilated law" that now form part of domestic law, such as EU regulations or EU decisions, so that these could also be modified. However, this would further broaden the scope of the proposed power and initial analysis did not indicate there was any pressing policy need for the power to be extended in this way and so we do not propose to do so.

252. At Annex 2 is a list of regulations we propose should be subject to the power to modify. This is an indicative, and not final, list that covers a range of areas that relate to the environment, for example: the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004; the Conservation of Habitats and Species Regulations 2017; the Urban WasteWater Treatment (England and Wales) Regulations 1994 and the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

253. As set out in the consultation questions below, we welcome views on the proposal to confer such a regulation making power on the Welsh Ministers, the breadth of the power and the indicative list of regulations covered, including whether there are any that need to be added or removed.

254. The Welsh Ministers are also considering whether the Bill should contain a regulation making power to amend the list of section 2(2) regulations contained in

the Bill. The benefit of having such a power is improved flexibility, so that if after the Bill is enacted it becomes apparent there are section 2(2) regulations that need to be amended that are not on the list, we can amend the list and then proceed to amend using the proposed power. Without such a power, primary legislation would be required if no other suitable powers are available.

255. The argument against taking such a power is that it further broadens the scope of an already broad power. Again, this is matter on which we are seeking views. Our preference is to seek a power to amend the list, as, given the large number of regulations relating to the environment that were made under section 2(2), there is a risk that regulations we may wish to amend have inadvertently been omitted from the list or that changing circumstances mean that it becomes necessary or desirable to amend regulations that were initially considered not to be within scope.

256. The final list of regulations subject to the proposed power to modify may be impacted, amongst other things, by ongoing work on the UK Government's EU Partnership Bill. It is important, however, to note that the EU Partnership Bill has a different purpose. It will make provision, broadly speaking, to enable legislation to be brought forward that is needed to comply with agreements between the UK and EU. Welsh Government officials are in contact with their counterparts in the UK Government to ensure proposals in the two Bills fit together.

How this would work in practice

257. The proposed power is an enabling power that permits the Welsh Ministers to modify the regulations made under section 2(2) that are listed in the Bill. Therefore, amending regulations would have to be made to modify any of the regulations in the list.

258. We are proposing that the Welsh Ministers be placed under a duty to conduct a consultation before making regulations under the new enabling power. This would provide opportunity for members of the public (and other stakeholders) to present their views as part of the legislative process.

259. There is also a choice of Senedd procedure to apply to the regulation making power. Senedd approval procedure means the amending regulations could only be made if a draft of the regulations has been laid before the Senedd and is subsequently approved by it. Approval is by way of a resolution, in this case, a decision following debate in Plenary.

260. An alternative is Senedd annulment procedure. Under this procedure the regulations would be made by the Welsh Ministers, laid before the Senedd and come into force. However, if the Senedd decides (through a resolution), before the end of 40 days beginning with the date on which the subordinate legislation was laid before it, that the legislation should not continue in effect, the legislation no longer has effect.

261. In our view, as the enabling power is broad and the regulations that are within scope make important provision that relates to the environment, the Senedd approval procedure, which involves a higher level of scrutiny by the Senedd, is the most appropriate.

262. We are also inclined to consider that the Senedd approval procedure would be appropriate for any power to amend by regulations the list of regulations. Adding or removing regulations from the list may significantly affect the scope of the proposed regulation making power and it is appropriate, therefore, to provide the increased Senedd scrutiny that comes with that procedure.

Impacts and considerations

263. Providing the Welsh Ministers with a power to modify specified section 2(2) regulations would support a more responsive and coherent environmental framework for Wales. It would help ensure important law can reflect Welsh priorities on climate action, nature recovery, water, waste, resource efficiency and sustainable rural resilience. Our proposals will also facilitate consultation and Senedd scrutiny when the power is exercised.

264. Conferring the proposed power on the Welsh Ministers would not give rise to any costs or other impacts that would fall to be considered under the Regulatory Impact Assessment or the Integrated Impact Assessment.

265. However, when the power is exercised to modify regulations made under section 2(2) of the European Communities Act 1972, a full Regulatory Impact Assessment and Integrated Impact Assessment will be prepared to assess the financial and other impacts of the resulting regulations.

Consultation questions

42 Should the Welsh Ministers be given the proposed regulation making power to modify specified regulations related to the environment, to be listed in the Bill, that were made under section 2(2) European Communities Act 1972?

43 Do you agree that the proposed power will help to protect and improve the environment and help to respond to the climate and nature emergencies and manage our natural resources sustainably? Do you have any suggestions how the power could be improved to achieve these outcomes?

44 Do you think any regulations should be added to or removed from the indicative list at Annex 2?

45 Do you agree with the proposed procedure, the Senedd approval procedure, for making regulations under the proposed power?

46 Should the Welsh Ministers be given a power by regulations to amend the list of section 2(2) regulations to add or remove regulations on the list? If so, do you agree that power should be subject to the Senedd approval procedure?

47 Do you think the proposed broad scope of the regulation making power to enable the Welsh Ministers to modify specified regulations to implement their policy is appropriate? If not, please could you outline the limitations you would like to see imposed. For example, do you consider there should be specific restrictions on the scope of the power? Or do you think there should be additional procedural safeguards when regulations are made?

48 Do you have any other comments on this proposal?

Strengthening Enforcement.

Establish a Task and Finish Group to seek views and gather evidence on strengthening enforcement for specified Environment and Agriculture offences in Wales.

266. Effective enforcement is essential if environmental law is to deliver real outcomes. Communities need confidence that harm to the environment will be addressed and those who cause it will be held accountable. Responsible businesses need confidence that poor practice will not be allowed to undercut them, and regulators need tools that are proportionate, fair and effective. This section therefore seeks views on how Wales should examine and strengthen the use of civil sanctions for environmental and agricultural offences.

Civil Sanctions

267. Civil sanctions are non-criminal enforcement measures that regulators (such as Natural Resources Wales or Local Authorities) may use to address non-compliance with regulatory requirements instead of pursuing criminal prosecution. They provide regulators with a flexible and proportionate range of responses to breaches, such as monetary penalties or compliance requirements, enabling issues to be resolved more quickly and effectively where criminal proceedings would be unnecessary or disproportionate.

268. Civil sanctions operate alongside criminal offences, but separately to scheme rules such as Basic Payment Scheme cross compliance or Sustainable Farming Scheme regulatory controls. They allow regulators to target enforcement action according to the seriousness of the breach, while reserving prosecution for the most serious or deliberate cases.

Current Law

269. The Regulatory Enforcement and Sanctions Act 2008 (“RESA 2008”) which applies in relation to England and Wales establishes a statutory framework that enables regulators to use a range of civil sanctions as an alternative to criminal prosecution, for certain regulatory offences that are listed in Schedules to the Act. Part 3 of RESA

2008 sets out how civil sanctions can be applied and enforced for certain regulatory offences.

270. Section 36 of RESA 2008 provides power to make orders providing for civil sanctions. Where the provision relates to devolved matters, the Welsh Ministers may (by order) make provision under section 36 of RESA 2008 for four types of the civil sanctions: fixed monetary penalties (section 39), discretionary requirements (section 42), stop notices (section 46), enforcement undertakings (section 50). Discretionary requirements allow a regulator to impose variable monetary penalties, compliance requirements or restoration orders.

271. The order may further provide for the operation of the framework of sanctions, including using a combination of sanctions together and may set out the recovery of any costs incurred as a result of applying a civil sanction. Section 69 of RESA 2008 Act requires that monies derived from applying financial penalties as part of the civil sanctions' regime are paid into the Wales Consolidated Fund, part of the UK Treasury.

272. Section 62 of RESA 2008 extends the power to provide for civil sanctions, enabling civil sanctions to be applied where the Welsh Ministers have powers to create criminal offences by statutory instrument made pursuant to specified enactments in RESA 2008. There are also many instances where civil sanctions are applied to offences pursuant to powers provided in primary legislation. For example, section 87 Environment Act 1995 (as amended by section 24 of the Environment (Air Quality and Soundscapes (Wales) Act 2024) enables regulations to establish FPN schemes as an alternative to prosecution.

The problem

273. While RESA 2008 is the principal legislative framework underpinning the use of civil sanctions in the environmental and agricultural sectors, it was developed to operate alongside the criminal law as it stood at the time of its introduction in 2008 and reflects the regulatory context of that period.

274. Since then, the regulatory landscape has evolved significantly. While RESA 2008 continues to provide an important legal basis for civil sanctions , many new offences have been created since it came into force. This has raised questions as to whether the framework remains fully aligned with current enforcement needs and policy objectives in Wales's environmental and agricultural sectors.

275. Questions have arisen as to whether civil sanctions could be created for some criminal offences created after RESA came into force. The position under RESA can be uncertain and reform of this area, including modernising the civil sanctions regime on a bespoke basis for Wales, would create certainty over offences in relation to which civil sanctions could be created in Wales.

276. In addition, regulators have told us about practical challenges in the operation of civil sanctions created using powers in RESA 2008. In particular, the requirement to apply the criminal standard of proof when imposing certain civil sanctions has been cited as a potential reason for lower levels of enforcement. Some regulators consider that the need to bring enforcement at the criminal standard of proof has resulted in lower levels of enforcement because of the resources, finance and investigation that are required to prove beyond reasonable doubt that there has been a breach of a particular statutory provision. This has implications for the effectiveness of enforcement, reducing the ability to apply more proportionate civil sanctions in appropriate cases and potentially weakening deterrence where stakeholders see low levels of enforcement taking place.

277. The ability to create certain civil sanctions with a lower standard of proof (such as a regulator's "reasonable belief" that a statutory requirement has been breached) could result in more enforcement and could be a key reform in this area.

278. At the same time however, it is recognised that the use of the criminal standard of proof reflects important safeguards and provides assurance in the application of sanctioning powers. There are therefore differing perspectives on the extent to which this requirement should be retained or modified.

279. In light of these considerations, we consider that the time is right to review how RESA 2008 operates in practice in relation to environmental and agricultural

offences in Wales, including exploring whether there are opportunities to improve the effectiveness, flexibility and proportionality of the civil sanctions regime.

280. To support this work, we propose to establish a Task and Finish Group, bringing together key stakeholders to examine the current framework and identify potential options for reform.

The proposed change

281. It is proposed that a Task and Finish Group be established to examine the current civil sanctions framework, to identify options for reform and to gather evidence on how the enforcement regime for environmental and agricultural offences might be improved. The Group would inform the development of a future legislative approach, including consideration of whether a new statutory framework for civil sanctions is required, providing a collaborative approach to ensure that any future framework is effective, proportionate and robust.

How this would work in practice

282. The Task and Finish Group will seek to engage a broad range of interests to consider whether a new legislative framework to apply civil sanctions to specified environmental and agricultural offences should be introduced.

Consultation questions

49. Do you agree that a collaborative Task and Finish Group is the appropriate mechanism for taking forward consideration of reform in this area?
50. Would you or your organisation wish to participate in, or otherwise support, the work of such a Group, and if so, please explain in what capacity.
51. What expertise, evidence or perspectives do you consider would be important to inform the work of the Group?
52. What issues should the Task and Finish Group prioritise?
53. Which sectors, organisations or interests should be represented in the Group's work?

Impacts and considerations

283. As the proposal is limited to establishing a Task and Finish Group, the immediate implications are limited to Welsh Government establishing and supporting the group. The wider value is that it would create a structured route to gather evidence, test options and build a shared understanding of what a modern Welsh civil sanctions framework should achieve. If future legislation is proposed, it would be subject to further consultation, impact assessment and Senedd scrutiny.

Next steps

284. We will consider responses to this consultation and establish a Task and Finish Group to seek views and gather evidence on strengthening enforcement by developing proposals for a new legal framework for civil sanctions.

Purposes of this consultation and next steps

285. While we have set out in this consultation our proposals for amendment, the consultation responses will be reviewed and fully considered before any final decisions on amendments are made.

286. The draft Regulatory Impact Assessment and Integrated Impact Assessment have been published alongside the White Paper. These are live documents and will continue to be updated as we go through the legislative process.

287. We welcome evidence and views that will assist us in strengthening these assessments.

288. Following the consultation period, policy development will continue informed by the responses received. Next steps will be communicated following full consideration of the consultation responses, and a Consultation Summary Report will be published on the consultation pages of the Welsh Government website.

Annex 1 – Rural Proofing

Public authorities to whom we propose the duty should apply, so far as they exercise functions in Wales
Blaenau Gwent County Borough Council
Bannau Brycheiniog National Park
Bridgend County Borough Council
Caerphilly County Borough Council
Carmarthenshire County Council
Ceredigion County Council
City and County of Swansea
City of Cardiff Council
Conwy County Borough Council
Denbighshire County Council
Flintshire County Borough Council
Cyngor Gwynedd Council
Isle of Anglesey County Council
Merthyr Tydfil County Borough Council
Monmouthshire County Council
Neath Port Talbot Council
Newport City Council
Pembrokeshire Coast National Park Authority
Pembrokeshire County Council
Powys County Council
Rhondda Cynon Taf County Borough Council
Eryri National Park
Torfaen County Borough Council
Vale of Glamorgan Council
Wrexham County Borough Council
Albion Water
Dwr Cymru Welsh Water
Hafren Dyfrdwy

Natural Resources Wales
Transport for Wales
Aneurin Bevan University Health Board
Betsi Cadwaladr University Health Board
Cardiff & Vale University Health Board
Cwm Taf Morgannwg University Health Board
Hywel Dda University Health Board
Powys Teaching Health Board
Swansea Bay University Health Board
Velindre University NHS Trust
Welsh Ambulance Services University NHS Trust
Public Health Wales NHS Trust
Health Education and Improvement Wales
NHS Wales Joint Commissioning Committee
NHS Wales Performance and Improvement (NHS Executive)
NHS Wales Shared Services Partnership
Digital Health and Care Wales
Social Care Wales
Llais
Amgueddfa Cymru - Museum Wales
Arts Council of Wales
Cadw
Royal Commission on the Ancient and Historical Monuments of Wales
Sport Wales
Medr: The Commission for Tertiary Education and Research
Mid and West Wales Fire and Rescue Authority
North Wales Fire and Rescue Authority
South Wales Fire and Rescue Authority
Qualifications Wales
Trydan Gwyrdd Cymru
Welsh Revenue Authority

Annex 2 - Power to modify specified regulations made under section 2(2) European Communities Act 1972

Indicative list of section 2(2) regulations subject to the power to modify

Regulation / line title
Environmental Assessment of Plans and Programmes (Wales) Regulations 2004/1656
Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009/995
Environmental Noise (Wales) Regulations 2006/2629
Habitat (Coastal Belt) (Wales) Regulations 1994/3101
Habitat (Species-Rich Grassland) (Wales) Regulations 1994/3102
Habitat (Water Fringe) (Wales) Regulations 1994/3100
Marine Licensing (Delegation of Functions) (Wales) Order 2013/414
Marine Licensing (Exempted Activities) (Wales) Order 2011/559
Plant Health (Fees) (Forestry) (Wales) Regulations 2019/497
Private Water Supplies (Wales) Regulations 2017/1041
Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017/1024
European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016/665
Fishery Products (Official Controls Charges) (Wales) Regulations 2007/3462
Zootechnical Standards (Wales) Regulations 2018/1152
Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013/2696
Conservation of Habitats and Species Regulations 2010/490
Conservation of Habitats and Species Regulations 2017/1012
Ecodesign for Energy-Related Products Regulations 2010/2617
Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999/1783
European Communities (Immunities and Privileges of the North Atlantic Salmon Conservation Organization) Order 1985/1773
European Communities (Immunities and Privileges of the North Atlantic Salmon Conservation Organization) Order 2001/3673
European Communities (Immunities and Privileges of the North-East Atlantic Fisheries Commission) Order 1999/278
Fishing Vessels (Codes of Practice) Regulations 2017/943
Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004/1713
Flood Risk (Cross Border Areas) Regulations 2010/1102

Forest Law Enforcement, Governance and Trade Regulations 2012/178
Grants for Fishing and Aquaculture Industries Regulations 2015/1711
Hydrocarbon Oil (Marking) Regulations 2002/1773
Hydrocarbons (Temporary Management Scheme) Regulations 2013/1329
Hydrocarbons Licensing Directive Regulations 1995/1434
Justification Decision (Generation of Electricity by the UK ABWR Nuclear Reactor) Regulations 2015/209
Marine Works (Environmental Impact Assessment) Regulations 2007/1518
Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014/3345
Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011/2305
Storage of Carbon Dioxide (Inspections etc.) Regulations 2012/461
Storage of Carbon Dioxide (Licensing etc.) Regulations 2010/2221
Storage of Carbon Dioxide (Termination of Licences) Regulations 2011/1483
Water Supply (Water Quality) Regulations 2018/647
Drinking Water (Undertakings) (England and Wales) Regulations 2000/1297
Eels (England and Wales) Regulations 2009/3344
Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999/2228
Forest Reproductive Material (Great Britain) Regulations 2002/3026
Urban Wastewater Treatment (England and Wales) Regulations 1994/2841
Water Environment (Water Framework Directive) (England and Wales) Regulations 2017/407
Water Supply (Miscellaneous Amendments) (England and Wales) Regulations 2010/996
The Fluorinated Greenhouse Gases Regulations 2015/310
The Ozone-Depleting Substances Regulations 2015/168
Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019/539

Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Consultation questions

The questions below are grouped by section. Please respond to the questions that are relevant to you. You do not need to answer every question.

UK General Data Protection Regulation (UK GDPR)

We will publish a summary of consultation responses and may publish some responses in full. Responses are published anonymously and names and contact details are not included unless you request otherwise when submitting your response. Please do not include any information that could identify you or other individuals in your response.

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Rural Proofing

1. Do you think Wales needs a new rural proofing duty? Please explain your response.

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

2. Do you agree with the proposed form of the rural proofing duty (a duty to have regard to rural needs)? Please explain your answer.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

3. Do you agree with the proposed list of public authorities to whom the duty should apply? Please explain your answer.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

4. Do you think public authorities subject to a rural proofing should be required to periodically report on what actions they have taken, or propose to take, to comply with the duty? Please explain your answer.

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

5. Do you agree that the Welsh Ministers should be required to provide statutory guidance to support the new rural proofing duty? If so, what is your view on what should be included in that guidance. Please explain your answer.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

6. What is your opinion about how a duty might work with existing arrangements between public authorities for joint working?

Please explain:

7. What practical matters, such as evidence and research, networks and human capacity building, would need to be addressed to make a rural proofing duty successful?

Please explain:

8. What benefits, costs, risks or unintended consequences do you think could arise from introducing a statutory rural proofing duty?

Please explain:

9. Do you have any other comments, evidence or experience, including from other parts of the UK or internationally, that should inform the development of proposals? For respondents who are public authorities, it would be beneficial to know what action you already undertake to consider rural proofing.

Please explain here. Send further information to this email address:
EnvironmentalPolicy.Legislation@gov.wales

10. How, if at all, should a rural proofing duty work alongside the designation of Areas of Higher Density Linguistic Significance? In your view, what additional contribution could rural proofing make to supporting the sustainability of Welsh-speaking communities in those areas?

Please explain here.

11. What evidence, data, guidance or other resources would public authorities need to effectively consider impacts on Welsh-speaking communities and the Welsh language when undertaking rural proofing?

Please explain here.

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Climate Change

Climate Change Act 2008

12. Do you agree that the section 80(1) report should focus on the impact of climate change only, because Wales now has a separate statutory framework for greenhouse gas emissions reduction through the Environment (Wales) Act 2016? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

13. Do you agree that assessments of progress in addressing the impacts of climate change should be separated from the section 80(1) report on objectives, actions and future priorities? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

Environment (Wales) Act 2016

Amend section 34(3), net Welsh emissions

14. Do you agree that the definition of Welsh removals should be amended so that it includes removals from the atmosphere “due to processes, mechanisms or activities”? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

15. Do you have views on the implications of counting engineered removals in the net Welsh emissions account? Please explain.

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

Amend section 39, proposals and policies for meeting carbon budgets

16. Do you agree that section 39 should be changed so that each plan contains policies and proposals for meeting two carbon budgets on a rolling cycle? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

17. Do you have views on the practical implications of producing plans on this basis, including for stakeholders who use the plans? Please explain.

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

Amend section 41(11), final statement for budgetary period

18. Do you agree that section 41(11) should be changed so that a final statement uses the most recent consumer emissions data available? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

19. Do you agree there should be a new requirement for the annual publication of an estimate of consumer emissions? Please explain your view.

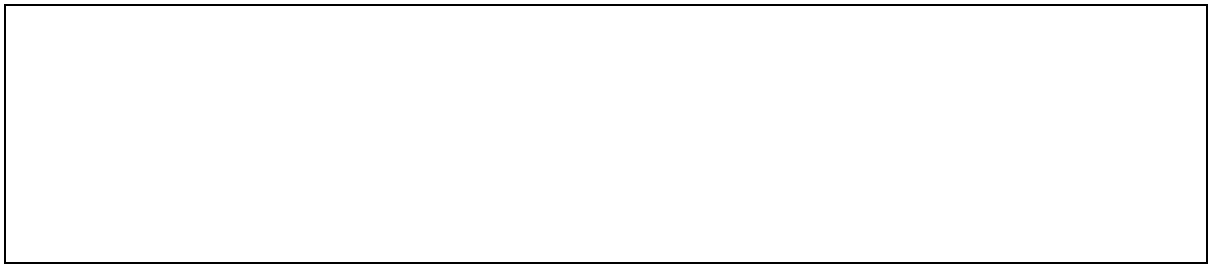
Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:



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Forestry Act 1967

Notices to stop and information requirements

20. Do you agree that NRW should have a power to issue a notice to stop to a person felling trees without a felling licence while the matter is investigated and to prevent further environmental damage? Do you have any alternative approaches? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

21. Do you agree that there should be power to include in a notice a requirement that timber/arisings remain on site while NRW investigates, to preserve evidence and enable accurate assessment of the offence? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

22. Do you agree that NRW should have the power to issue a further notice requiring the person responsible to provide information necessary to NRW's investigation to establish whether the felling was unlawful and the extent of the unlawful activity? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

A court order to restock

23. Do you agree that courts should be able to issue a court order to restock in Wales in addition to financial penalties? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

24. Do you agree that courts should be able to issue a court order to restock for an alternative area of land (where the felled site can no longer be replanted e.g. through sale or site conditions have been changed)? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

Enable restocking notices issued under section 17A, enforcement notices issued under section 24 to be registered as land charges.

25. Do you agree that restocking and enforcement notices to restock should be registered as local land charges, so they are visible during property searches? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

26. Are there other steps you think could be taken to ensure compliance with restocking and enforcement notices and strengthen the link between enforcement and woodland restoration?

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

27. Do you have views on what rights of appeal or other safeguards would be required in relation to each of these proposals? Please explain your view

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your views for each proposal:

Woodland creation and restoration

28. Do our current processes provide sufficient safeguards to ensure that our communities are protected from inappropriate planting?

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

29. If your answer to the previous question was no, what other measures would you like to see put in place?

Please explain what other measures you would like to see in place:

30. Would you like to see any additional measures put in place to protect high quality agricultural land?

☐ Yes

☐ No

Please explain your answer:

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Waste

Littering from vehicles

31. Do you support the introduction of legislation that would allow the registered owner of the vehicle to be issued with a civil penalty, even if they were not responsible for the littering offence?

☐ Yes

☐ No

Please explain your answer:

32. Do you have evidence to show the effectiveness of issuing civil penalties to tackle littering from vehicles?

☐ Yes

☐ No

If yes, please summarise your evidence below. Send further information to this email address: EnvironmentalPolicy.Legislation@gov.wales

33. Do you have data/evidence on the economic impacts of littering from vehicles/ roadside litter?

☐ Yes

☐ No

If yes, please summarise your data/evidence below. Send further information to this email address: EnvironmentalPolicy.Legislation@gov.wales

34. Do you have data on the environmental impacts of littering from vehicles/ roadside litter?

☐ Yes

☐ No

If yes, please summarise your data below. Send further information to this email address: EnvironmentalPolicy.Legislation@gov.wales

35. Do you have data on the social impacts of littering from vehicles/ roadside litter?

☐ Yes

☐ No

If yes, please summarise your data below. Send further information to this email address: EnvironmentalPolicy.Legislation@gov.wales

UK General Data Protection Regulation (UK GDPR)

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The Environmental Protection (Single-use Plastic Products) (Wales) Act 2023

36. Do you agree that section 4(2) of the Environmental Protection (Single use Plastic Products) (Wales) Act 2023 should be amended so that the reporting mechanism works as intended? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

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Environmental Regulations

Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations 2017 and Household Waste Duty of Care (Fixed Penalties) (Wales) Regulations 2019

Amendment powers for fly-tipping fixed penalties

37. Do you agree that the fixed penalty levels in the Unauthorised Deposit of Waste (Fixed Penalty) (Wales) Regulations 2017 and the Household Waste (Duty of Care (Fixed Penalty)) (Wales) Regulations 2019 should be increased? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

38. Do you agree with the proposed changes to the fixed penalty notices? If not, please explain your views and proposed amounts.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

39. Are our assumptions on costs and savings in the Regulatory Impact Assessment correct for increasing the fixed penalty notice? If not, what is missing, and what are the costs or savings of those missing items/activities and for those listed.

Please select one:

☐ Yes

☐ No

If not, please explain what is missing and the costs:

40. Do you have any information that could be useful to help inform the impact assessments that have been prepared to support this proposal?

Please select one:

☐ Yes

☐ No

If yes, please summarise the information below. Send further information to this email address: EnvironmentalPolicy.Legislation@gov.wales

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Biodiversity and resilience of ecosystems duty - Environment (Wales) Act 2016

41. Do you agree that section 6(6A)(b) of the Environment (Wales) Act 2016 should be repealed? Please explain your view.

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

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Power to modify specified regulations made under section 2(2) European Communities Act 1972

42. Should the Welsh Ministers be given the proposed regulation making power to modify specified regulations related to the environment, to be listed in the Bill, that were made under section 2(2) European Communities Act 1972?

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

43. Do you agree that the proposed power will help to protect and improve the environment and help to respond to the climate and nature emergencies and manage our natural resources sustainably? Do you have any suggestions how the power could be improved to achieve these outcomes?

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

44. Do you think any regulations should be added to or removed from the indicative list at Annex 2?

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

45. Do you agree with the proposed procedure, the Senedd approval procedure, for making regulations under the proposed power?

Please select one:

☐ Agree

☐ Disagree

☐ Other

Please explain your answer:

46. Should the Welsh Ministers be given a power by regulations to amend the list of section 2(2) regulations to add or remove regulations on the list? If so, do you agree that power should be subject to the Senedd approval procedure?

Please select one:

☐ Yes

☐ No

☐ Other

Please explain your answer:

47. Do you think the proposed broad scope of the regulation making power to enable the Welsh Ministers to modify specified regulations to implement their policy is appropriate?

Please select one:

☐ Yes

☐ No

☐ Other

If no, please could you outline the limitations you would like to see imposed. For example, do you consider there should be specific restrictions on the scope of the power? Or do you think there should be additional procedural safeguards when regulations are made?

48. Do you have any other comments on this proposal?

Please select one:

☐ Yes

☐ No

Please explain your answer:

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Strengthening Enforcement.

Establish a Task and Finish Group to seek views and gather evidence on strengthening enforcement for specified Environment and Agriculture offences in Wales.

49. Do you agree that a collaborative Task and Finish Group is the appropriate mechanism for taking forward consideration of reform in this area?

Please select one:

☐ Yes

☐ No

Please explain your answer:

50. Would you or your organisation wish to participate in, or otherwise support, the work of such a Group, and if so, please explain in what capacity.

Please select one:

☐ Yes

☐ No

If yes, please explain in what capacity:

51. What expertise, evidence or perspectives do you consider would be important to inform the work of the Group?

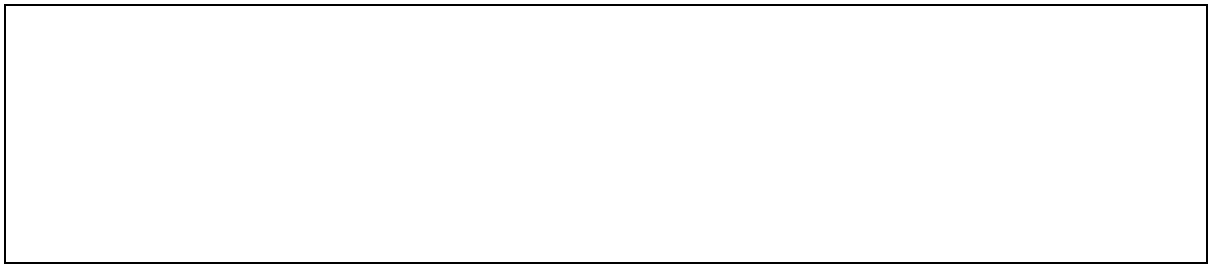
Response:

52. What issues should the Task and Finish Group prioritise?

Response:

53. Which sectors, organisations or interests should be represented in the Group's work?

Response:



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Regulatory Impact Assessment and Integrated Impact Assessment

54. Do you have any information or evidence that would be helpful to inform the Regulatory Impact Assessment and/or Integrated Impact Assessment that has been published alongside the White Paper? If so, can you please provide it.

Please select one:

☐ Yes

☐ No

If yes, please summarise the information below or click upload to upload additional documents.

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Children's Rights

The Children's Rights Impact Assessment that forms part of the Integrated Impact Assessment that accompanies the White Paper, assesses the impact of the Bill's proposals on children and young people.

55. Do you have any views on how the Bill proposals can be developed to improve, or reduce any negative impacts on, children's rights?

Please select one:

☐ Yes

☐ No

Please set out your views:

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Welsh language questions

The following are the standard Welsh Government Welsh language questions included in all consultations.

Question 56: What, in your opinion, would be the likely effects of the proposals in this White Paper on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

Do you think that there are opportunities to promote any positive effects?

Please select one:

☐ Yes

☐ No

Please explain your answer:

Do you think that there are opportunities to mitigate any adverse effects?

Please select one:

☐ Yes

☐ No

Please explain your answer:

Question 57: In your opinion, could the proposals in this White Paper be formulated or changed so as to:

have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or

mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Please explain your answer:

Question 58: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Response:

Responses to consultations may be made public. Your response will be anonymous.

However, if you would like your name to be published alongside your response, please insert an x in the box.

I agree to my name being published alongside my response to this consultation.	