

What are the forthcoming legislative issues of interest to ecologists and conservationists in 2018?

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This paper covers our eighth assessment of the forthcoming legislation that we consider to have likely consequences for the environment or for ecologists. We again review issues of a global scale, those in the European Union (EU), and those in the United Kingdom and constituent countries.

Our objective has been for a wide range of readers, from researchers to those involved in education, policy and practice, to have a review of likely changes. This runs in parallel to our annual paper in *Trends in Ecology and Evolution* describing technological, societal and biological changes that are likely to have impacts on conservation.

It has been a busy, but uncertain, year with Brexit and the change in the US presidency having far ranging consequences whose implications are currently far from clear.

The previous legislative scans (Sutherland 2011–17) are available to download for free on the BES website. The issues described in those scans are not repeated here, even if still relevant.

GLOBAL

Marine biodiversity in areas beyond national jurisdiction

At the very end of 2017, and following a preparatory phase of more than ten years, the UN General Assembly decided to launch formal negotiations to create a treaty to protect marine biodiversity in areas beyond national jurisdiction. The series of four negotiating meetings will begin in September 2018 and is expected to end in 2020 with a new treaty. Negotiations will address topics such as the establishment of marine protected areas and environmental assessments of activities that could damage marine ecosystems.

Among the challenges is how to protect biodiversity in areas beyond national jurisdiction without undermining the mandates of existing organizations such as Regional Fisheries Management Organizations or the International Seabed Authority, which regulates deep seabed mining. With respect to the latter, the development of regulations for the exploitation of seabed mineral resources as part of the Authority's seabed mining code continues. This will pave the way for the recovery of seabed mineral resources for commercial purposes, which is expected to follow current exploration activities approved by the Authority, and thus the searching for suitable deposits for subsequent exploitation. The regulations for exploitation are planned to be approved in 2020.

However, a number of stakeholders have expressed their deep concerns with regard to this timeline, in particular with regard to the agreement on environmental rules for exploitation. At the same time there is considerable pressure on the International Seabed Authority from countries holding exploration contracts to move forward quickly with the development of the exploitation regulations in order to transition from the exploration to the exploitation of minerals. Key issues that continue to shape the negotiations on the regulations also relate to the issue of transparency of the process and access to environmental data.

Developments towards the post-2020 agenda for biodiversity

In 2020, Parties to the Convention on Biological Diversity will adopt a new global biodiversity framework to succeed the Strategic Plan for Biodiversity 2011-2020. The process for developing this new agenda will be agreed by the Conference of the Parties in November in Egypt. Thus, 2018 will be a critical year, with decisions to be made about the process and direction for the post-2020 agenda for biodiversity. Final review of delivery of the current Strategic Plan will be based on a number of sources, a key one being the fifth edition of the Global Biodiversity Outlook. One input to this review will be the Global Wetlands Outlook, to be released at the Conference of the Parties to the Ramsar Convention on Wetlands in October. Other sources still in development include assessments being undertaken by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES). In March, the IPBES Plenary meeting in Colombia will consider for approval four regional assessments of biodiversity and ecosystem services, and a thematic assessment on land degradation and restoration. An IPBES global assessment is due for completion in 2019.

The 2030 Agenda for Sustainable Development will be particularly relevant as the post-2020 agenda for biodiversity is being developed, both because of the importance of biodiversity and ecosystem services in achieving the Sustainable Development Goals, and because a number of the targets in the 2030 Agenda are derived from the Aichi Biodiversity Targets and therefore have a target date of 2020. With these points in mind it is also intended to take advantage of other relevant processes such as the High-Level Political Forum on Sustainable Development in July in New York and the next UN Environment Assembly in March 2019, to consider the role of biodiversity and ecosystem services in addressing the sustainable development agenda. With regard to national implementation of the post-2020 agenda for biodiversity, and in order to avoid time-lags between adoption and implementation at the national level, ideas that are being explored include the suggestion that Parties might begin considering their national commitments in advance of the formal adoption of the post-2020 agenda for biodiversity.

Forest biodiversity and sustainable development

After a focus amongst others on the conservation and sustainable use of the oceans (Sustainable Development Goal 14) at the High-Level Political Forum on Sustainable Development in 2017, the next meeting in July 2018 will undertake a detailed review of a further set of Sustainable Development Goals, including Goal 15 on life on land. With regard to forests, input to the Forum will be provided by a conference organized by the Collaborative Partnership on Forests in February in Italy and the UN Forum on Forests, which will convene in May 2018. The UN Forum on Forests will address implementation of the first ever UN Strategic Plan for Forests 2017-2030, which calls for reversing the loss of forest cover and increasing forest area by 3 percent worldwide by 2030.

Other area-based conservation measures

With respect to Aichi Biodiversity Target 11, and in response to an IUCN World Conservation Congress Resolution in 2012, technical guidance on the interpretation of the wording “and other effective area-based conservation measures” (OECMs), is currently being developed. The respective task force was established in 2015 and it will present guidelines on OECMs at the 14th Conference of the Parties to the Convention on Biological Diversity in November 2018. Parties are also expected to consider the adoption of a formal definition of OECMs at the Conference in Egypt, given that it will become increasingly important to track and understand the regulatory frameworks under which these areas are managed in order to assess progress until 2020 and beyond.

Environmental pollution

The first Conference of the Parties to the Minamata Convention on Mercury was held in September 2017 in Geneva. Next to a number of procedural and organizational issues, such as an interim arrangement for the location of the convention’s secretariat in Geneva, the meeting addressed a

number of substantive issues. This included agreement on a range of measures to limit the impact of mercury extraction and industrial usage, such as the adoption of guidelines to regulate artisanal and small-scale gold mining and the reduction of mercury emissions. The second Conference of the Parties is scheduled to take place in November 2018. The third UN Environment Assembly, held in December 2017, was also themed around the issue of pollution. A key focus was on marine litter and microplastics and countries agreed that the issue must be addressed as a priority in countries' environmental actions plans. Committing amongst others to the strengthening and enforcement of more integrated policies, regulations and laws, the Ministerial Declaration of the 2017 UN Environment Assembly "Towards a Pollution-Free-Planet" also recognized the Kigali Amendment to the Montreal Protocol on the phasedown of short-lived climate pollutant, hydrofluorocarbons, which will enter into force in 2019.

Environmental Safeguards

Similar to a number of financial institutions that recently updated their safeguard policies, the World Bank will launch its new Environmental and Social Framework in 2018. The exact date is still to be determined. This will have a significant influence on government development activities around the world, as it will apply to all new Bank investment projects. One of the ten Environmental and Social Standards that form part of the framework includes Environment and Social Standard 6 on Biodiversity Conservation and Sustainable Management of Living Natural Resources. In common with Performance Standard 6 of the International Finance Corporation, a net gain for critical habitat and no net loss for natural habitat (net gain, where feasible), are required.

In the past, the adoption of environmental standards in multilateral development banks and financial institutions has been important for the progress of law and policy around the globe, in particular with respect to environmental assessment legislation. The combination of public and private financing requirements where Equator Principles finance institutions are involved may also lead to enhanced safeguard implementation.

EUROPE

Brexit

A Brexit deal will be negotiated this year (prior to UK's scheduled exit in March 2019) and could have implications for environmental standards in the UK and for the rest of the EU (depending on what is agreed), especially if it is seen to be allowing the UK to "cherry pick" which standards it adheres to in order to trade with the EU as this would undermine the integrity of the single market/environmental acquis.

Fitness Check Water Legislation

The EU have started a Fitness Check into various bits of fundamental water management legislation including the Water Framework Directive, the Floods Directive and the Urban Waste Water Treatment Directive. The fitness check will look at the relevance, effectiveness, efficiency, coherence and EU added value of the directives and will include an assessment of the potential for regulatory simplification and burden reduction. An online public consultation will be undertaken in the first half of 2018 with an opportunity for further discussion at the European Water Conference in September 2018. The fitness check process is programmed to be completed in the second half of 2019. On the Water Framework Directive in particular it is expected that there will be lobbying from some member states and sectors to extend the 2027 deadline and to move away from the "one out all out" rule for good ecological status classification.

Invasive Alien Species Regulation

The central component of the Invasive Alien Species Regulation is the IAS List – a list of Invasive Alien Species deemed so dangerous their use is heavily restricted across the EU. Several Member States, led by Germany, are actively hostile towards the Regulation. Having spent two years trying to prevent any species being included on the EU IAS List, these hostile nations have changed track and now called for a delay of 3 years in including any new species on the EU IAS List. In doing so they have gained support from additional Member States. There was a real risk at the meeting of the Member States in Dec 2017 that a decision would be taken to prevent any species being included on the EU IAS List for the next three years. Thereby significantly undermining efforts to reduce the IAS threat. As a compromise, the Commission and the Member States agreed to delay for one year the further inclusion of species on the IAS List. Conservationists remain concerned that this delay will be extended beyond the one year and are putting political pressure on to stop this from happening.

In 2018 the European Commission will propose a piece of secondary legislation to set the evidence criteria by which a species will be judged appropriate or not for inclusion on the Invasive Alien Species list. This legislation can be vetoed by either the European Parliament or the Member States. Industry groups are lobbying for a high evidence base, so that few if any species will be included on the list. Environmental NGOs are calling for a more measured approach.

2030 Climate and Energy framework

A broad-ranging legislative package aimed at driving Europe's delivery against international climate change mitigation commitments is currently progressing through the European co-decision process. The 'Clean Energy for All Europeans' package covers both renewable energy, energy efficiency and governance of the broader energy transition. The implications of the way in which Member States pursue the clean energy transition could have profound impacts on species and habitats. European Parliament has shown support for relatively ambitious targets for renewable energy and energy efficiency, whilst at the same time supporting a more strategic spatial approach to energy planning that better respects ecological limitations. Except for a ban on the use of palm oil for energy generation, they are proposing limited improvements to the current bioenergy policy which is driving wildlife damage. Uncertainty remains however, about the appetite of national governments for the progressive elements of the European Parliament's proposal.

Member States will be needing to develop their draft National Energy & Climate Plans (as required by the Governance Regulation) this year, in preparation for the 2019 deadline (exact date to be confirmed – this is an area of intense debate – the Commission suggest 1 January; Parliament have said 6 months after regulation coming into force, or 1 June 2019 whichever is later; Council will probably push for 31 December).

Common Agriculture Policy

Following the European Commission's Public Consultation and Impact Assessment of the Common Agriculture Policy undertaken last year, the Commission has published its communication setting out its initial thoughts on the future of the policy, this was described by the Agriculture Commissioner, Phil Hogan, as evolution rather than revolution. The communication sets out four objectives for the Common Agriculture Policy, three are updated versions of current objectives and an additional fourth objective to address societal expectations regarding sustainable food production, in particular concerning food safety, food quality, environmental and animal welfare standards. These four objectives are underpinned by three horizontal measures or principles which apply to each objective: a new delivery model for the Common Agriculture Policy and a commitment to a simpler policy; a shift towards a more knowledge-based agriculture based on research and innovation; and coherence of the Common Agriculture Policy with the Union's commitment to supporting sustainable development in developing countries. In June or July 2018 it is anticipated that the Commission will formally publish its impact

assessment, in the second half of the year the Commission will publish its legislative proposals and following this the co-decision process with the European Parliament and Council will begin.

Multi-Annual Financial Framework

The current Multi-Annual Financial Framework, which sets the main EU spending priorities, runs to 2020 and the Commission is developing proposals for the next period – 2021-27. Proposals were originally due to be published in late 2017 but delayed due to Brexit and now expected in May 2018. This will be followed by negotiation between the Parliament and Council and expected adoption by the European Parliament in 2019.

Plastics Strategy

The first-ever Europe-wide strategy on plastics, adopted on the 16 January 2018, is a part of the Commission's transition towards a more circular economy. Their aim is to protect the environment from plastic pollution whilst fostering growth and innovation, turning a challenge into a positive agenda for the Future of Europe. They assert that there is a strong business case for transforming the way products are designed, produced, used, and recycled in the EU and by taking the lead in this transition, the Commission wants to create new investment opportunities and jobs. Under the new plans, all plastic packaging on the EU market will be recyclable by 2030, the consumption of single-use plastics will be reduced and the intentional use of microplastics will be restricted. The Commission will present the proposal on single-use plastics later in 2018. Stakeholders have until 12 February 2018 to contribute to the ongoing public consultation. The Commission will launch the work on the revision of the Packaging and Packaging Waste Directive and prepare guidelines on separate collection and sorting of waste to be issued in 2019.

Common Fisheries Policy

Following the Commission's proposal in 2016 for a new Technical Measures Regulation to revise the rules on how, where and when fishing can be done across different sea basins in Europe, the regulation was heavily debated in 2017 in both Council working groups and the European Parliament, and hence its adoption was delayed. Trilogue negotiations are expected to take place for most of 2018. Although the proposed new regulation aims to reduce impacts on not just fish stocks but also the wider marine environment, it is currently too early to determine if it will actually deliver in aligning with the reformed Common Fisheries Policy and environmental legislation (Birds Directive, Habitats Directive, and Marine Strategy Framework Directive).

To implement regionalised decision-making under the reformed Common Fisheries Policy, multiannual plans for each of the sea basins are to be developed. The Commission's proposed plan for demersal fishing in the North Sea (North Sea Multiannual Plan) entered trilogue in 2017, with expected adoption in 2018. The legislation is not expected to include concrete measures to tackle fisheries impacts on the wider marine environment (e.g. seabird bycatch) but it will create the possibility for these to be agreed regionally.

UNITED KINGDOM

The European Union (Withdrawal) Bill

This Bill puts an end to the supremacy of European Union law in the UK by repealing the European Communities Act 1972. It also converts EU law and preserves EU-related domestic law onto the post-exit day statute book and provides delegated powers to make secondary legislation in order to prepare for leaving the EU.

At the time of writing, the date for the second reading of the bill in the House of Lords had not been set but was expected at the end of January. Given that the government does not have a majority there, and the concerns already expressed by the peers about the bill, it is expected this will not be a straightforward process. Therefore, the legislation is likely to return to the House of Commons after the House of Lords.

Over 400 amendments and 80 new clauses were tabled to the bill when in the House of Commons, with the amendment papers reaching 170 pages. A number of concerns were raised about its potential impact, including the Henry VIII powers. Henry VIII powers are concerning since it would enable the use of secondary legislation to amend the text of primary legislation. The government says it needs Henry VIII powers to tidy up “deficiencies arising from withdrawal”; referring to EU regulators, the European Court of Justice and other entities that will no longer have any sway in Brexit Britain. Additionally, important tabled amendments that have significant consequences for the environment in particular include a new clause to enshrine EU environmental principles within law and for the establishment of a new independent environmental regulator. The clause sets out the minimum standards for consultation on these matters. However, the publication of the 25 year plan for improving the environment stated its commitment to consult in 2018 on the scope, powers and functions of a new environmental watchdog. Although no clarity was provided on the precise timescale for this.

An additional proposed clause referred to environmental protection and improvement. The clause would ensure oversight of the transfer of functions from EU institutions to domestic institutions, by requiring the Government to establish a publicly accessible register of environmental governance functions and powers exercised by EU institutions, and to make regulations that ensure that all relevant environmental powers and functions are continued.

A UK Fisheries Bill

The Queen’s speech included a Fisheries Bill to ‘enable the UK to control access to its waters and set UK fishing quotas once it has left the EU’. At the time of writing there was no further formal information as to when to expect the Fisheries Bill to be tabled in 2018 (or even 2019 since the June 2017 Queen speech proposed a two-year legal programme). However, Defra Minister’s had already hinted to expect the publication of a White Paper on the new Fisheries Bill by the end of 2017 (which did not happen), with the Bill being published and introduced early 2018. Hence, many are hoping the White Paper will be published early 2018.

An Agriculture Bill

The Queen’s Speech mentioned an Agriculture Bill that will ensure an effective system is in place to support UK farmers and protect the natural environment after the UK leaves the EU, and therefore the Common Agricultural Policy. However, it appears as though a more likely approach will be the development of a UK wide Policy Statement on Agriculture that provides a framework for all UK countries. The 25 year plan for improving the environment stated, “a new environmental land management scheme will help us deliver more for the environment ... We will work closely with the devolved administrations on a framework that works for the whole of the UK and reflects the needs and individual circumstances of Scotland, Wales, Northern Ireland and England. As part of this, we will continue to engage regularly with all the devolved administrations to explore options on the design and appropriate extent of the forthcoming Agriculture Bill.”

ENGLAND

The European Union (Withdrawal) Bill completed its 3rd reading during the week commencing 15 January 2018. Three main areas of interest are the proposed Agriculture Bill, Fisheries Bill, and the Secretary of State’s decision, announced in November 2017, to consult on a new environmental body

to fill the EU governance gap. The implications of these initiatives may have a bearing on just England, or on the UK as a whole, although at present the details remain uncertain.

We know that a Transition Agreement is planned to be in place from the end of March 2019, at which point we will leave the Common Agriculture and Common Fisheries Policies. There is an intention to remain bound by EU rules, although there is no legislative mechanism to ensure this. The Multi-Annual Financial Framework period to 2020 means we will be eligible for EU funds until then and, for example, the current round of LIFE funding remains available. There is proposed to be a statement of environmental principles to inform domestic policy and decision-making, for example enshrining 'polluter pays' in the domestic regime.

Fisheries

The Fisheries White Paper leading to legislation in the next Parliament is expected imminently and ahead of the Agriculture Bill. It is understood the government wish to see the provision of legislative powers to enable sustainable marine management in UK waters, including 12-200nm limits, alongside controls on fishing quotas. The Marine Management Organisation may be tasked with regulating access to resources and quotas.

Agriculture

At present it is understood that there is likely to be a Command Paper with policy questions for consultation in late February 2018. The Secretary of State has indicated that the Basic Payment Scheme subsidy will be phased out, and there will be a new method of providing financial support to farmers, moving away from subsidies to paying 'public money for public goods', a constant rhetoric now for some months. In addition there is the intention to build a natural capital approach in all land-use and management to develop a truly sustainable future for our countryside. A new universal stewardship scheme available to all has been trailed, as has the intention to maintain the total cash value of public support to agriculture through to 2022.

Proposal for new Environment Body

The Secretary of State's intention is to create a new body that is able to hold Government to account, probably through Parliament rather than within a government department, replacing the jurisdiction of the EU. Speculation surrounds the details of such a body and its relationships to existing environmental public bodies such as Natural England and the Environment Agency. Models such as the Climate Change Committee and the Information Commissioner's Office have been put forward as ideas, in addition to models elsewhere in the world such as in New Zealand. There is an unresolved question as to whether the targets and measures within the 25 Year Environment Plan could be placed on the statute as the basis for holding this and future governments to account over the period of the plan.

25 Year Environment Plan (25YEP)

On 11 January 2018 the Prime Minister launched the long awaited 25 Year Environment Plan – '*A Green Future: Our 25 Year Plan to Improve the Environment*'. Commentators have been supportive of the breadth and the real ambition in the plan, and more challenging about the detail of its implementation. In particular, the lack of a commitment to translate ambition into law by establishing an Environment Act aimed at restoring nature, to date is seen as a notable omission. The Secretary of State's speech at the Oxford Farming Conference in early January, and his verbal evidence to the House of Lords Committee into the effectiveness of the Natural Environment and Rural Communities (NERC) Act and Natural England are informative.

The plan contains a range of positive initiatives and commitments, and reconfirms that the effect of all EU laws to protect the environment will be maintained. Specific commitments include the principle of Net (environmental) Gain where the impacts of development will need to be more than outweighed by

beneficial interventions for habitats and species. There are commitments to create or restore 500,000 hectares of wildlife-rich, priority habitat outside protected areas, and to create a Nature Recovery Network based on the Lawton principles. There is an intention to facilitate funding through a new domestic natural environment impact fund.

It must be recognised that writing an account such as this at a time of uncertainty and very fast moving change is, at best, an educated guess at details and timescales of the tectonic changes likely to be implemented.

SCOTLAND

The Scottish Government publishes the Programme for Government in September, implementing Manifesto commitments for the financial year. The environment and environmental issues got more mentions in the 2018-19 version than in previous Programmes.

Programmes for Government

The Programme for Government 2017-18 (Scottish Government, 2017) was described as the 'greenest ever' (Dixon, 2017). It strongly reflected the First Minister's ambitions, with arguably strong lines on education, environment and the economy. A strong theme is the low carbon, circular, digital, fairer economy, and repopulating and empowering Scotland's rural, coastal and island communities. Evidently, the choreography of the First Minister entering the Chamber with the Cabinet Secretary for Environment, Climate Change and Land Reform sent an important message about priorities.

As in previous programmes in Scotland, environmental rights and fairness are important themes, both in terms of helping improve the environmental fortunes of those suffering from disadvantage and also anticipating the need to resolve some environmental conflicts of interest in the absence of EU institutions (e.g. Court of Justice of the European Union).

The legislative programme for the Scottish Parliament in 2018-19 is likely to focus mainly on progressing existing Bills and allowing space to deal with legislative requirements arising from the UK Government's negotiations on Brexit.

Climate Change Bill

This brings the 2009 Act up to date with regard to the Paris Agreement, including more ambitious targets to reduce greenhouse gas emissions so that Scotland plays its role in limiting the global temperature increase to 1.5°C above pre-industrial levels. It also seeks to increase transparency, to demonstrate the Scottish Government's commitment to sustainable economic growth, and signals to the international community that Scotland is well placed to undertake low carbon business.

The new Climate Change Plan for 2018 is expected to set an ambitious programme to reduce greenhouse gases and to provide certainty to businesses and investors about how the Scottish Government plans to reduce emissions over the 2020s and early 2030s. There is likely to be a focus on electric vehicles and associated infrastructure, heating, increasing rates of woodland planting and continuing a major programme of peatland restoration.

Crown Estate Bill

This establishes a framework for the management of Crown Estate assets to ensure Scotland's local communities, authorities and industry can benefit from the devolution of the Crown Estate.

Planning Bill

Responding to the independent review of the planning system, this will facilitate the provision of infrastructure to support development that Scotland is deemed to need. It offers a simpler, more effective system of development plans; and improves the procedures for preparing plans allowing communities better opportunities to influence the future of their areas.

Grouse Moors and Deer management

Two experts groups have been established to look at the future of deer Management (chaired by Simon Pepper) and grouse moor management (chaired by Professor Alan Werritty). Both groups should make key recommendations by summer 2019, which could have major implications for the regulation and management of large areas of rural Scotland.

WALES

Wales' ground breaking legislation putting sustainable development at the centre of decision making continues to create wider consultation and new innovative products on multiple aspects of the governance of Wales and its relationships with the rest of the UK and further afield. The Environment (Wales) Act 2016 and the Well-being of Future Generations (Wales) Act (2015) both enshrine the commitment to key international obligations that will not change because of the UK's exit from the EU. The legislation demonstrates how the crucial international work streams covering the United Nations Sustainable Development Goals, United Nations Framework Convention on Climate Change, and the United Nations Convention on Biological Diversity can be integrated at the sub-national level to drive real change.

Well-being of Futures Generations (Wales) Act (2015)

As set out in the Well-being of Future Generations Act, the Welsh Government and its 43 public bodies must demonstrate the Five Ways of Working (Integration; prevention; collaboration; long-term; involvement) in setting well-being objectives that maximise the contribution to the seven Well-being Goals for Wales. These Ways of Working towards the Goals are increasingly being embedded in public bodies' corporate plans and reporting. To ensure everyone works towards the same purpose, the listed public bodies must work to achieve all the goals, not just one or two.

The first Future Trends Report was published in May 2017 to support Welsh public bodies balance short-term needs with the ability to also meet long-term needs. It identified key social, economic, environmental and cultural trends that could affect Wales in the future, as well as some factors that could influence the direction of those trends. A growing community across government and the research community is developing the evidence base for the next report.

All 19 local Public Services Boards are functioning and have produced their required online Assessments of local well-being. Each Assessment draws together findings from data, academic research, future trends and the views of local people, and considers their economic, social, environmental and cultural well-being. During 2017, the Public Services Boards used the assessments to draft their Well-being Plans that identify their well-being priorities. Drafts went out for consultation in September 2017, and final plans should be published by April or May 2018. The next phase is to set out the delivery actions.

In 2017, the independent Future Generations Commissioner produced her first annual report, and put her draft strategic plan 2017–2023 online. She also provided a report, 'Well-being in Wales: Planning today for a better tomorrow,' containing 17 recommendations on the key areas of change needed for

the public sector to make better decisions for future generations. The Commissioner provided individual feedback to all 19 Public Services Boards on their assessments.

Environment (Wales) Act (2016)

As the first product of the Environment Act, the 2016 State of Natural Resources Report, produced by Natural Resources Wales, was the primary evidence base for the first National Natural Resources Policy. The State of Natural Resources Report will normally have a five-year cycle, but the second report will be published in late 2020 to bring it in line with the Assembly election cycle. This second report is currently under external stakeholder discussion to upgrade and refine its databases, develop analyses, and explore more innovative presentational styles.

Following a three-month public consultation ending in February 2017, the first Natural Resources Policy, was published on 21 August 2017. This was the second statutory product of the Environment Act. It set out policies, priorities, opportunities and challenges for the sustainable management of natural resources in Wales, especially three national priorities to deliver nature-based solutions increase renewable energy and resource efficiency, and take a place-based approach. It also identified necessary actions in relation to climate change and biodiversity, and to contribute towards the goals across the Well-being of Future Generations Act.

Area Statements, as required by the Environment Act, ensure that national priorities inform a place-based approach to local delivery and are being produced by Natural Resources Wales in partnership with diverse stakeholders, who will be encouraged and supported to take area-based action. Area Statements will, for example, support Public Authorities in complying with the Environment Act Section 6 Biodiversity and Ecosystem Resilience Duty, Local Authorities when developing Local Development Plans, and feed into Local Well-being Assessments and Plans. Six Area Statements cover terrestrial Wales, and a seventh covers Welsh marine waters. Subject areas include renewable energy, green infrastructure, natural flood alleviation, land and soil management. Natural Resources Wales aims to deliver all-Wales coverage by the end of 2019.

Part 1 of the Environment Act promotes sustainable management of natural resources, to maintain and enhance the resilience of ecosystems and the benefits they provide. Section 7 will replace the Section 42 lists of habitats and species under the Natural Environment and Rural Communities Act in respect of Wales, with “a list of living organisms and types of habitat which are...of principle importance for the purpose of maintaining and enhancing biodiversity in relation to Wales”. This is a work in progress, reflecting the challenges of translating ecological complexity into legislative requirements.

Marine Management

The three-month Welsh Government consultation on the draft first Welsh National Marine Plan for Welsh seas ends on 29 March 2018. It covers inshore and offshore marine plan areas for which Welsh Ministers are the marine planning authority. The draft WNMP supports the sustainable development of Welsh seas and includes policy in relation to 11 sectors, including marine aggregates. The approach to managing marine activities in the draft WNMP conforms to the Marine and Coastal Access Act 2009, UK Marine Policy Statement (2011), and applies the sustainable development principles of the Well-being of Future Generations (Wales) Act 2015 and the requirements of the Environment (Wales) Act 2016. It introduces a framework to support sustainable decision-making for Welsh seas; sets out the Welsh Government vision and strategic objectives; presents general policies (economic, environmental and social) and includes sector-specific policies.

The Welsh Government works as part of a Marine Protected Area Management Steering Group with organisations who are also marine-protected-area managing authorities. Following consultations on options to ensure Welsh Marine Protected Areas are managed to achieve and remain in favourable condition and meet statutory obligations. It now provides strategic support and guidance to

management authorities to facilitate activity that has greatest impact on the condition of Marine Protected Areas, their features and network.

Recycling and circular economy

The 2010 overarching waste strategy document for Wales “Towards Zero Waste” established ambitious targets for waste prevention and recycling. By 2050, Wales aims to have reduced the impact of waste to within its environmental limits and to recycle at least 70% of waste by 2025. To achieve this, statutory recycling targets have been set, which, coupled with an investment of up to £750 million to support local authorities to deliver next generation waste facilities, has seen Wales achieve the highest recycling rates in the UK and third in the world. Importantly, as well as significantly increasing recycling to 56%, work in the waste sector has significantly reduced emissions by 20.4% and delivered economic growth. The Welsh Government also anticipate savings against future costs of over £5.5 million on food waste and over £500 million on residual waste programs. Provisions in the Environment Act help to achieve more recycling by businesses and the public sector, and in 2017, the Welsh Government announced a £6.5 million fund to help the country move towards a circular economy.

A consultation to refresh the strategy starts in July 2018 to ensure it complements the aims set out in the Well-being of Future Generations Act and the Environment Act. The objective is to continue progressing towards Wales’ One Planet Goal of reducing the impact of waste in Wales to within environmental limits by ensuring plans and programmes continue to plan and manage Wales’ natural resources proactively, sustainably and in a joined-up way, ensuring present needs are met without compromising the needs of future generations.

National Development Framework

A summary of the January-March 2017 Call for Evidence and Projects for the National Development Framework was published in August 2017. A consultation on Issues and Options will take place in April 2018.

New Environmental Impact Assessment (EIA) Regulations

New regulations came into force on 16 May 2017 to reflect changes to the Directive relating to a wide range of subjects, including Agriculture, Marine, Forestry, Town and Country Planning, Land drainage, and Water resources. Individual organisations and companies are currently looking at the implications of these within the context of the Planning Act and Environment Act.

Wales Act 2017

The Wales Act came into force on 31 January 2017. It amends the Government of Wales Act 2006 and the Wales Act 2014, and makes provision for the implementation for many influential changes, including a new fiscal framework. It empowers the Welsh Assembly to make laws on any matter except those specifically reserved to the UK Parliament. Some of the areas that have been conceded to Wales include powers over heat and cooling networks, and devolution of a package of measures on water and sewerage. There is no clear principle underpinning the scope of the powers devolved to the assembly and those reserved to the UK Parliament.

NORTHERN IRELAND

The Northern Ireland Executive remains in hiatus after a collapse as a result of a botched Renewable Heat Incentive scheme in January 2017. A new Northern Ireland Secretary, Karen Bradley, has reengaged talks between the two main parties with the outcome at this stage still unknown. At a United Kingdom level, the Democratic Unionist Party continue to work in partnership with the Conservative Party government in what is known as a ‘confidence and supply’ deal. However, significant uncertainty

remains at local level, particularly because agriculture, fisheries and environment are devolved competencies.

Impact of Impasses on Brexit related matters

Intensification of agriculture remains the most significant contributor to biodiversity and water quality decline in Northern Ireland. Moving away from the Common Agriculture Policy as a result of Brexit, into a new domestic regime focused on the principle of 'Public Money for [environmental] Public Goods' has the potential to focus public money on the delivery of environmental outcomes. The legislative case for this is to be set out in the Agriculture Bill, mentioned in the Queens Speech. However it is not yet clear how much of this will apply to devolveds, with indications that the majority of the legislation will apply to England only. It can only be assumed that devolved governments would then draft their own legislative programme for agriculture, however with no local Assembly in place this poses a significant problem for Northern Ireland. In the scenario where there is no Assembly, Northern Ireland would either take no action or the United Kingdom government would have to consider a direct rule option that would facilitate a legislative process in Northern Ireland. Despite this, the Department of Agriculture Environment and Rural Affairs are meeting with stakeholders to gain an understanding of what the Agriculture, Fisheries and Environment sectors need new domestic policy to achieve.

Most pressing however is the 'European Union (Withdrawal) Bill' and the transposition of Statutory Instruments/Regulations (secondary legislation) into domestic law for Northern Ireland. The Department of Agriculture Environment and Rural Affairs is currently carrying out an assessment of all relevant legislation to ensure that technical changes necessary to correct deficiencies arising as a result of the UK leaving the EU are flagged and reported. With no Northern Ireland Assembly, concern is arising amongst stakeholders that there will be no consultation on changes in Statutory Instruments/Regulations. Key pieces of European Union legislation, such as the Birds and Habitats Directive (The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995), could be weakened as a result.

Key developments and Issues awaiting 'sign-off'

The Environmental Farming Scheme is the Department of Agriculture Environment and Rural Affairs new agri-environment programme which incentivises farmers and land managers to manage land for specific environmental needs. It has a budget of £100m and the first tranche opened in February 2017, with agreements commencing in January 2018. The scheme will open for a second tranche in March and July of 2018.

As mentioned previously, agriculture and environment are devolved issues, therefore any new change in policy or legislation, as a result of Brexit or otherwise, cannot be signed off unless by a local Minister. A Key issue awaiting ministerial sign-off includes the extension of marine Special Protected Area on the east coast of Northern Ireland, adding over 96,000ha to the protected area network for the benefit of seabirds and marine wildlife. The Department are also consulting on a new Bovine Tuberculosis strategy, with the proposal to cull badgers in core affected areas, however this is proving controversial with the public, and the strategy is unlikely to become operational unless approved by a Minister.

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