

ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Sustainable management of natural resources

Section 23 – Power of NRW to conduct experimental schemes etc.

129. This section substitutes a provision for article 10C of the Establishment Order.
130. Article 10C, (as substituted by section 23) has the effect of extending the general research functions of NRW to include the making of arrangements for the carrying out of experimental schemes.
131. Article 10C(1) gives NRW (referred to in the Establishment Order as “the Body”) power to make arrangements for the carrying out of research and experimental schemes that are relevant to the exercise of its functions. Research or schemes may be carried out by NRW or other persons.
132. Article 10C(3) provides that when NRW exercises these functions in relation to nature conservation, it must have regard to the common standards for the monitoring of nature conservation, research into nature conservation and analysis of resulting information that have been established by the Joint Nature Conservation Committee (as provided under section 34(2) of the NERC Act 2006).
133. The purpose of article 10C is to enable NRW to undertake, support or commission research and also experimental or innovative schemes, whereby these schemes are a means to trial new approaches to the delivery of their powers and obligations under legislation in a way that can help them to meet their overarching purpose of achieving the sustainable management of natural resources.
134. NRW currently has powers under section 4 of the Countryside Act 1968 (“the 1968 Act”) to make and carry out experimental schemes designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity. This power is therefore restricted to a limited area of NRW’s remit. Article 10C extends the scope of NRW’s power to conduct experimental schemes. Section 4 of the 1968 Act is repealed (see paragraph 2(2) of Schedule 2 to the Act).
135. For the purposes of article 10C an experimental scheme is a scheme designed to develop or apply new or modified methods, concepts or techniques, or to develop or test proposals for regulatory change.
136. NRW may trial the development or application of new methods, concepts or techniques to deliver their actions in a way that helps to achieve the outcome of sustainable management of natural resources. This may include new administrative, technical, or scientific approaches to achieving this outcome. An example of this could include the trialling of new standards or conditions, which may lead to the development of legislation providing for a general binding rule (GBR) i.e. the trialling of alternative methods of regulating activities.

*These notes refer to the Environment (Wales) Act 2016
(c.3) which received Royal Assent on 21 March 2016*

137. An illustrative example of this could be where NRW seeks to develop statutory codes of practice that can identify minimum standards for certain activities, without the need for permitting or licensing and which can deliver the same or improved standard of performance. NRW may wish to undertake a trial in a particular area covered by an area statement (as provided in section 11 of the Act) to identify the role of natural resources to assist in flood alleviation (for example through the role of peatlands).
138. The power to support experimental schemes in article 10C(2) is not limited to financial support and so could include the provision of equipment and expertise. Where NRW do provide financial support, this may be either as a grant or as a loan or a combination of both and may attach conditions requiring repayment or the whole or part of any grant (articles 10B(2) and (3) of the Establishment Order).