
Changes to legislation: There are currently no known outstanding effects for the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, Cross Heading: Content. (See end of Document for details)

SCHEDULE 2 ENVIRONMENTAL STANDARDS SCOTLAND: STRATEGY

Content

- 1 (1) The strategy prepared and published under section 22(1) must set out how Environmental Standards Scotland intends to—
- (a) monitor—
 - (i) public authorities' compliance with environmental law, and
 - (ii) the effectiveness of environmental law and of how it is implemented and applied,
 - (b) provide for persons (including members of the public, non-government organisations and other bodies) to make representations to it about any matter concerning—
 - (i) whether a public authority is failing (or has failed) to comply with environmental law,
 - (ii) the effectiveness of environmental law or of how it is (or has been) implemented or applied,
 - (c) handle those representations, including how it will keep persons informed about its handling of their representations,
 - (d) exercise its functions in a way that respects and avoids any overlap with—
 - (i) other statutory regimes (including statutory provision for appeals) or administrative complaints procedures,
 - (ii) the exercise of functions by the Scottish Public Services Ombudsman, the Commissioner for Ethical Standards in Public Life in Scotland, the Scottish Information Commissioner, Audit Scotland or the Committee on Climate Change,
 - (iii) the exercise of functions by any committee of the Scottish Parliament for the time being appointed by virtue of standing orders, whose responsibilities include considering matters relating to environmental law,
 - (e) determine whether to carry out an investigation into any matter concerning—
 - (i) whether a public authority is failing (or has failed) to comply with environmental law,
 - (ii) the effectiveness of environmental law or of how it is (or has been) implemented or applied,
 - (f) carry out and prioritise any such investigations,
 - (g) engage with the public authorities it investigates with a view to —
 - (i) swiftly resolving (so far as possible without the need to issue a compliance notice or prepare an improvement report) any matter concerning a failure to comply with environmental law, to make effective environmental law or to implement or apply it effectively, and
 - (ii) reaching agreement on any appropriate remedial action to be taken for the purpose of environmental protection, and
 - (h) identify and recommend measures to improve the effectiveness of environmental law or of how it is implemented or applied.
- (2) In addition, the strategy must set out—

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- (a) the general factors that Environmental Standards Scotland intends to consider before exercising its functions (including its power to require public authorities to provide information),
- (b) how Environmental Standards Scotland intends to—
 - (i) take account of different kinds of information (for example, evidence, research, independent and expert advice and developments in international environmental protection legislation) for the purpose of exercising its functions,
 - (ii) determine what constitutes a systemic failure for the purpose of section 26(2),
 - (iii) determine whether a failure to comply with environmental law could be addressed more effectively by issuing a compliance notice (rather than by preparing an improvement report) for the purpose of section 26(3),
 - (iv) determine whether a failure to comply with environmental law is serious for the purposes of section 38(1)(a) and (4)(a),
 - (v) determine whether environmental harm is serious for the purposes of section 38(1)(b) and (4)(b), and
- (c) any other information that Environmental Standards Scotland considers is appropriate to include.

Commencement Information

II Sch. 2 para. 1 in force at 1.10.2021 by S.S.I. 2021/304, reg. 2(c)

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