



Natural Environment and Rural Communities Act 2006

2006 CHAPTER 16

PART 3

WILDLIFE ETC.

Biodiversity

40 Duty to conserve [^{F1}and enhance] biodiversity

[^{F2}(A1) For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England.

- (1) A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.
- (1A) After that consideration the authority must (unless it concludes there is no new action it can properly take)—
 - (a) determine such policies and specific objectives as it considers appropriate for taking action to further the general biodiversity objective, and
 - (b) take such action as it considers appropriate, in the light of those policies and objectives, to further that objective.
- (1B) The requirements of subsection (1A)(a) may be satisfied (to any extent) by revising any existing policies and specific objectives for taking action to further the general biodiversity objective.
- (1C) The first consideration required by subsection (1) must be completed by the authority within the period of one year beginning with the day on which section 102 of the Environment Act 2021 comes into force.

Changes to legislation: There are currently no known outstanding effects for the Natural Environment and Rural Communities Act 2006, Section 40. (See end of Document for details)

- (1D) Any subsequent consideration required by subsection (1) must be completed no more than five years after the completion of the authority’s previous consideration.
- (1E) A determination required by subsection (1A)(a) must be made as soon as practicable after the completion of the consideration to which it relates.
- (1F) Nothing in this section prevents the authority from—
- (a) determining or revising policies and specific objectives at any time, or
 - (b) taking action to further the general biodiversity objective at any time.]
- (2) In complying with [^{F3}subsections (1) and (1A)], a Minister of the Crown [^{F4}or government department] must in particular have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992.
- [^{F5}(2A) In complying with subsections (1) and (1A) the authority must in particular have regard to—
- (a) any relevant local nature recovery strategy, and
 - (b) any relevant species conservation strategy or protected site strategy prepared by Natural England.
- (2B) The Secretary of State must issue guidance to local planning authorities as to how they are to comply with their duty under subsection (2A)(a) when complying with subsections (1) and (1A) in their capacity as such authorities.
- (2C) Guidance under subsection (2B) must be—
- (a) published by the Secretary of State in such manner as the Secretary of State thinks fit,
 - (b) kept under review, and
 - (c) revised where the Secretary of State considers it appropriate.
- (2D) The first guidance under subsection (2B) must be published by the Secretary of State within the period of two years beginning with the day on which section 102 of the Environment Act 2021 comes into force.]
- [^{F6}(3) The action which may be taken by the authority to further the general biodiversity objective includes, in particular, action taken for the purpose of—
- (a) conserving, restoring or otherwise enhancing a population of a particular species, and
 - (b) conserving, restoring or otherwise enhancing a particular type of habitat.]
- (4) “Public authority” means any of the following—
- (a) a Minister of the Crown;
 - ^{F7}(b)
 - (c) a public body (including a government department, a local authority [^{F8} and a local planning authority]);
 - (d) a person holding an office—
 - (i) under the Crown,
 - (ii) created or continued in existence by a public general Act, or
 - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
 - (e) a statutory undertaker.
- (5) In this section—

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“local authority” means—

(a) [^{F9}a county council in England], a district council, a parish council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) ^{F10} ...

"local planning authority" has the same meaning as in the Town and Country Planning Act 1990 (c. 8);

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);

"statutory undertaker" means a person who is or is deemed to be a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.

^{F11} ...

[^{F12}(6) This section has effect in relation to Her Majesty’s Revenue and Customs with the following modifications—

(a) the omission from subsection (A1) of the words “in England” and “in relation to England”;

(b) the omission from subsection (1) of the words from “which” to “England”.

(7) In this section references to England include the territorial sea adjacent to England.]

Textual Amendments

- F1** Words in s. 40 heading inserted (1.1.2023) by Environment Act 2021 (c. 30), ss. **102(2)**, 147(3) (with s. 144); S.I. 2022/1266, reg. 2(a)
- F2** S. 40(A1)-(1F) substituted for s. 40(A1)(1) (1.1.2023) by Environment Act 2021 (c. 30), ss. **102(3)**, 147(3) (with s. 144); S.I. 2022/1266, reg. 2(a)
- F3** Words in s. 40(2) substituted (1.1.2023) by Environment Act 2021 (c. 30), ss. **102(4)**, 147(3) (with s. 144); S.I. 2022/1266, reg. 2(a)
- F4** Words in s. 40(2) substituted (21.5.2016) by Environment (Wales) Act 2016 (anaw 3), s. 88(2)(a), **Sch. 2 para. 9(2)(c)**
- F5** S. 40(2A)-(2D) inserted (1.1.2023) by Environment Act 2021 (c. 30), ss. **102(5)**, 147(3) (with s. 144); S.I. 2022/1266, reg. 2(a)
- F6** S. 40(3) substituted (1.1.2023) by Environment Act 2021 (c. 30), ss. **102(6)**, 147(3) (with s. 144); S.I. 2022/1266, reg. 2(a)
- F7** S. 40(4)(b) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), s. 88(2)(a), **Sch. 2 para. 9(2)(d)(i)**
- F8** Words in s. 40(4)(c) substituted (21.5.2016) by Environment (Wales) Act 2016 (anaw 3), s. 88(2)(a), **Sch. 2 para. 9(2)(d)(ii)**
- F9** Words in s. 40(5)(a) substituted (21.5.2016) by Environment (Wales) Act 2016 (anaw 3), s. 88(2)(a), **Sch. 2 para. 9(2)(e)(i)**
- F10** Words in s. 40(5) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), s. 88(2)(a), **Sch. 2 para. 9(2)(e)(ii)**
- F11** Words in s. 40(5) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), s. 88(2)(a), **Sch. 2 para. 9(2)(f)**
- F12** S. 40(6)(7) inserted (1.1.2023) by Environment Act 2021 (c. 30), ss. **102(7)**, 147(3) (with s. 144); S.I. 2022/1266, reg. 2(a)

Commencement Information

- I1** S. 40 in force at 1.10.2006 by S.I. 2006/2541, art. 2 (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Natural Environment and Rural Communities Act 2006, Section 40.