

*These notes refer to the Environment (Air Quality and Soundscapes) (Wales) Act 2024 (c.2) which received Royal Assent on 14 February 2024*

# **ENVIRONMENT (AIR QUALITY AND SOUNDSCAPES) (WALES) ACT 2024**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes are for the Environment (Air Quality and Soundscapes) (Wales) Act 2024 which was passed by Senedd Cymru on 28 November 2023 and received Royal Assent on 14 February 2024. They have been prepared by the Climate Change and Rural Affairs Group of the Welsh Government to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

### **SUMMARY AND BACKGROUND**

2. The aim of the Act is to improve the quality of our air environment and reduce the impacts of airborne pollution on human health, nature, the environment and our economy.
3. The Act creates a framework for the Welsh Ministers to set targets in relation to air quality in Wales and amends existing air quality legislation in relation to local air quality management, road user charging, anti-idling and smoke control. The Act creates new duties for the Welsh Ministers to take steps to promote awareness of the risks to human health and the natural environment caused by air pollution and ways of reducing or limiting air pollution. The Act also places Welsh Ministers and local authorities under a duty to promote active travel as a way of reducing or limiting air pollution and makes provision for this duty to be imposed, by regulations, on other public authorities. The Act also includes provisions related to noise and soundscapes, requiring Ministers to produce a national strategy on soundscapes.
4. The Act comprises 31 sections and two Schedules.

### **COMMENTARY ON SECTIONS**

#### **Part 1 – Air quality**

##### ***Chapter 1 – National targets***

5. This Chapter makes provision for a specific framework for setting, reviewing and reporting on national air quality targets for Wales, which will apply in addition to other legislation in this area. The new targets will provide a specific mechanism to deliver long-term outcomes and places a duty on Welsh Ministers to make regulations to set a target in respect of the annual mean level of PM2.5 in ambient air in Wales and to set a further long-term target.

##### ***Section 1 – Air quality targets: general***

6. Subsection (1) gives the Welsh Ministers a power to make regulations that set long-term targets in respect of any matter relating to air quality in Wales.

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7. Subsection (2) places a duty on the Welsh Ministers to exercise the power in subsection (1) to set a long-term target for one of the following pollutants: ammonia, PM10 (defined in subsection (8)), ground level ozone, nitrogen dioxide, carbon monoxide or sulphur dioxide.
8. Any target set under these regulations must, under subsection (3), specify a standard to be achieved and a date by which that standard is to be achieved. Subsection (8) explains that these are referred to as the “specified standard” and “specified date” in Chapter 1 of the Act (and these references have the same meaning within these Explanatory Notes).
9. A standard might be specified, for example, in relation to a concentration of an air pollutant with harmful effects on public health, ecosystems and biodiversity.
10. The specified standard must be capable of being objectively measured and so the process of setting targets will need to take this into account. Subsection (4) enables the Welsh Ministers to make provision within the regulations about how the matter in respect of which the target is set is to be measured. The method of measurement will need to be clear and repeatable.
11. Subsection (5) provides that regulations setting the target required by subsection (2) must specify that the target is set to comply with that subsection.
12. Subsection (6) provides that a target is a “long-term target” if the specified date for that target is at least 10 years after the date on which the target is set. Subsection (7) explains that a target is set when the regulations setting it come into force.

### ***Section 2 – Air quality targets: particulate matter***

13. This section imposes a duty on Welsh Ministers to set at least one target, in regulations, in respect of the annual mean level of PM2.5 in ambient air in Wales. This is referred to as a “PM2.5 air quality target” in this section and Chapter 1 of the Act (and this reference has the same meaning within these Explanatory Notes).
14. Subsection (2) provides that a PM2.5 air quality target may be a long-term target, but it does not have to be.
15. Subsection (3) defines PM2.5 as particulate matter with an aerodynamic diameter not exceeding 2.5 micrometres. Subsection (4) provides that the Welsh Ministers must ensure that “ambient air” is defined for the purpose of each PM2.5 target and that regulations under section 2 may contain different definitions for different targets.
16. Subsection (5) applies subsections (3) to (4) and (6) to (8) of section 1 to regulations made under this section: see above for an explanation of the effect of these provisions. This means, for example, that regulations setting a PM2.5 air quality target must specify the standard to be achieved (which must be capable of being objectively measured) and must specify a date by which that standard is to be achieved.

### ***Section 3 – Target-setting process***

17. This section sets out the process that the Welsh Ministers must follow before setting, amending or revoking a long-term air quality target under section 1 and before setting or amending a PM2.5 air quality target under section 2. Neither a target set to comply with the duty in section 1(2) nor a PM2.5 air quality target can be revoked by regulations made under section 1 or 2 respectively (see subsections (7) and (8)).
18. Pursuant to subsection (1), before making regulations under sections 1 or 2 the Welsh Ministers must: (a) seek advice from persons they consider to be independent and have relevant expertise; and (b) have regard to scientific knowledge on air pollution. This could include, for example, international evidence on the health and environmental effects of air pollution and the economic, technical and social analyses, and the feasibility of meeting targets.

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19. Under subsection (2), before making regulations that set or amend a target in respect of a particular pollutant, the Welsh Ministers must have regard to any guidelines for that pollutant published by the World Health Organisation in its most recent global air quality guidelines.
20. Subsection (3) requires the Welsh Ministers to set targets they are satisfied can be met. This applies to a target or targets set under the first exercise of the powers under sections 1 and 2 and to any amended targets that are set using those powers. Subsection (9) provides that a target is met if the specified standard is achieved by the specified date.
21. Subsections (4) to (8) set out the process that must be followed in order to revoke or lower a target that has been set under section 1 or 2. Subsection (6) explains that a target is lowered if it replaces the specified standard with a lower standard or replaces the specified date with a later date.
22. Pursuant to subsection (4), the Welsh Ministers can only revoke or lower an existing target if they are satisfied that (a) meeting the existing target would have no significant benefit compared with not meeting it or meeting a lower target; or (b) because of changes in circumstances since the existing target was set or last amended the environmental, social, economic, or other costs of meeting it would be disproportionate to the benefits.
23. Meeting a target may have no significant benefit. For example, if meeting it was anticipated to generate a health benefit, and new scientific evidence has now demonstrated that the same health benefit is achievable through meeting a revised or entirely new target. Alternatively, the new scientific evidence may demonstrate that the anticipated health benefit is no longer expected.
24. A change in circumstances may, for example, occur as a result of unforeseen reductions in international emission reduction ambitions, assumed when the targets were set, affecting pollutant levels in Wales. This may significantly reduce the ability of actions taken in Wales to achieve a target, or disproportionately increase the associated costs.
25. Subsection (5) requires that before lowering or revoking a target, the Welsh Ministers must publish and lay before Senedd Cymru a statement that explains why they are satisfied that at least one of the grounds in subsection (4) has been met.
26. Subsection (10) requires the Welsh Ministers to lay a draft statutory instrument containing the regulations required by section 1(2) before Senedd Cymru before the end of the period of 6 years beginning with the date on which this Act receives Royal Assent.
27. Subsection (11) requires the Welsh Ministers to lay a draft statutory instrument containing regulations setting a PM<sub>2.5</sub> target before Senedd Cymru before the end of the period of 3 years beginning with the date on which this Act receives Royal Assent.

#### ***Section 4 - Effect of targets***

28. Subsection (1) places the Welsh Ministers under a duty to ensure long term targets set under section 1 and the PM<sub>2.5</sub> air quality targets set under section 2 are met.
29. Subsection (2) clarifies that nothing in Chapter 1 of the Act, except section 8, limits the Welsh Ministers' power under section 87 of the Environment Act 1995 to make regulations for the assessment or management of air quality.

#### ***Section 5 - Reporting on targets***

30. **Section 5** sets out the reporting duties that are placed on Welsh Ministers in relation to long-term targets set under section 1 and PM<sub>2.5</sub> air quality targets set under section 2.
31. Subsection (1) provides that regulations under sections 1 and 2 must set a reporting date for any target that is set under those regulations. On or before the reporting date

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for each target, the Welsh Ministers must lay one of three statements before Senedd Cymru (and publish that statement):

- a) A statement, under section 5(3)(a), that the target has been met.
- b) A statement, under section 5(3)(b), that the target has not been met. Within 12 months of laying this statement, the Welsh Ministers must, under subsections (4) and (5), lay a report before Senedd Cymru explaining why the target was not met and what steps they have taken, or intend to take to make sure that the specified standard under that target is achieved as soon as reasonably practicable. The Welsh Ministers must also publish this report.
- c) A statement, under section 5(3)(c), that the Welsh Ministers cannot determine whether the target has been met. This statement must also explain why the Welsh Ministers have not been able to make this determination and the steps they intend to take in order to be able to do so. Within 6 months of laying this statement, the Welsh Ministers must, under subsection (6), lay a further statement before Senedd Cymru confirming whether or not a target has been met or that they cannot determine whether it has been met. Subsections (3) to (6) apply to any further statement in the same way as they apply to a statement made under subsection (2). The Welsh Ministers must also publish the further statement.

### ***Section 6 - Review of targets***

32. Subsection (1) places a duty on the Welsh Ministers to review targets set under sections 1 and 2.
33. Under subsection (2), when undertaking a review, the Welsh Ministers must seek advice from persons they consider to be independent and to have relevant expertise. They must also have regard to scientific knowledge about air pollution. This could include, for example, international evidence on the health and environmental effects of air pollution and the economic, technical and social analyses, and the feasibility of meeting targets.
34. Under subsection (3), in carrying out a review of a target in respect of a pollutant for which guidelines have been published by the World Health Organisation in its most recent global air quality guidelines, the Welsh Ministers must have regard to the guidelines in respect of that pollutant.
35. Subsection (4) requires the Welsh Ministers, once they have carried out the review, to publish and lay before Senedd Cymru a statement about the steps, if any, they intend to take under section 1 or section 2 in relation to each target as a result of the review.
36. Subsection (5) provides that where the Welsh Ministers determine that no steps will be taken in relation to a target, the statement must include the reasons for that decision.
37. Subsections (6) and (7) set out when the targets set under sections 1 and 2 must be reviewed. The first review must be completed within 5 years beginning with the day on which the first target is set. Subsequent reviews must be completed within 5 years of the day on which the previous review was completed.
38. Subsection (8) clarifies that a review is completed when the Welsh Ministers have laid the statement referred to in subsection (4) before Senedd Cymru and published it.

### ***Section 7 - Monitoring progress towards meeting targets***

39. Subsection (1) requires the Welsh Ministers to make arrangements for obtaining such data about air quality in Wales as they consider appropriate for the purpose of monitoring progress being made towards meeting any of the targets set under section 1 or 2.
40. Subsection (2) requires the Welsh Ministers to publish any data that is obtained under subsection (1) as soon as is reasonably practicable.

### ***Section 8 – Maintaining air quality standards***

41. Section 87(1) of the [Environment Act 1995 \(c. 25\)](#) (referred to as “the 1995 Act” in these Explanatory Notes) gives the Welsh Ministers a power to make regulations with respect to the assessment or management of the quality of air.
42. [Section 8](#) of the Act requires this power to be exercised when the specified date for a target set under section 1 or 2 of this Act has been reached and the specified standard for the target has been achieved (whether by the specified date or by a later date).
43. [Section 8\(2\)](#) requires the Welsh Ministers, in these circumstances, to exercise their regulation-making power under section 87(1) of the 1995 Act to ensure that they are placed under a duty to maintain the standard that has been achieved and that they are required to report on compliance with that duty.
44. Under section 8(3), the Welsh Ministers can use their regulation-making powers under section 87(1) of the 1995 Act to lower the standard that must be maintained, or to revoke that standard. However, they can only do so if they are satisfied that one of the conditions in section 8(3)(a) or (b) is met.
45. Before making regulations under section 87(1) of the 1995 Act to lower the standard that must be maintained, or to revoke that standard, the Welsh Ministers must comply with the requirements in section 8(4)(a) to (d). These requirements are in addition to the consultation requirement under section 87(7B) of the 1995 Act.

### ***Section 9 – Reporting in relation to section 1***

46. [Section 9](#) requires the Welsh Ministers, as soon as practicable after the end of each reporting period, to publish and lay before the Senedd a report on the consideration they have given during that reporting period to setting long-term targets under section 1.
47. Subsection (4) explains that the reporting periods are the period of two years beginning with the day on which section 1 comes into force and each subsequent period of 12 months.
48. Subsection (2) lists the pollutants that the report must, in particular, address. These are (a) ammonia, (b) PM10 (as defined in section 1(8)), (c) ground level ozone, (d) nitrogen dioxide, (e) carbon monoxide and (f) sulphur dioxide.
49. Subsection (3) provides that the report does not have to address a pollutant if regulations have been made under section 1 in relation to that pollutant.

### ***Chapter 2 – Other provision***

#### ***Promoting awareness***

#### ***Section 10 - Promoting awareness about air pollution***

50. This section places a duty on the Welsh Ministers to take steps to promote awareness in Wales of the risks to human health and the natural environment caused by air pollution and ways of reducing or limiting air pollution.
51. Examples of ways in which the Welsh Ministers might discharge their duty might include: by encouraging, supporting and promoting local initiatives about air pollution; or by improving the provision of air pollution resources for health professionals and reviewing current information on the sources of air pollution and the health and environmental impacts, taking into account accessibility and requirements of different groups.



## **Promoting active travel**

### ***Section 11 – Promoting active travel as a way of reducing or limiting air pollution***

52. This section inserts three new sections, 10A, 10B and 10C, into the [Active Travel \(Wales\) Act 2013 \(anaw. 7\)](#) to create duties for the Welsh Ministers and local authorities to promote active travel as a way of reducing or limiting air pollution. These Explanatory Notes refer to the Active Travel (Wales) Act 2013 as “the 2013 Act”.
53. New section 10A of the 2013 Act sets out the Welsh Ministers’ duties in relation to promoting active travel. Subsection (1) places a duty on the Welsh Ministers to take steps to promote active travel as a way of reducing or limiting air pollution in Wales.
54. Subsections (2) and (3) require the Welsh Ministers to publish a statement about the steps they propose to take in the performance of their duty under subsection (1) as soon as possible after the coming into force of section 10A and to keep the statement under review.
55. Subsection (4) provides that the Welsh Ministers may revise the statement at any time and must publish the statement in its revised form.
56. Subsection (5) requires the Welsh Ministers to publish a report as soon as reasonably practicable after the end of each reporting period (as defined in subsection (6)) specifying the steps they have taken in the performance of their duty under subsection (1). The Welsh Ministers may also publish additional reports (see subsection (7)).
57. Subsection (6) explains that the “reporting period” is the period of 3 years beginning with the day on which section 10A comes into force and each subsequent period of 3 years.
58. New section 10B of the 2013 Act makes provision for the promotion by local and other authorities of active travel as a way of reducing or limiting air pollution.
59. Subsection (1) places a duty on local authorities to take steps to promote active travel as a way of reducing or limiting air pollution in their areas.
60. Subsection (2) provides that when a local authority submits an integrated network map to the Welsh Ministers under section 4(9)(c) of the 2013 Act, it must also publish a report specifying the steps it has taken in performance of its duty under subsection (1) during the period beginning with the coming into force of subsection (1) and ending with the submission of the map or, in the case of subsequent reports, the period since it last published a report under this subsection.
61. Subsection (3) provides that the Welsh Ministers may by regulations impose the duties to take steps to promote active travel as a way of reducing or limiting air pollution and to publish reports on the steps taken on any public authority specified in the regulations.
62. Subsection (4) provides that regulations under subsection (3) may only specify a public authority if it is a “devolved Welsh authority” within the meaning of section 157A(1)(a) of the [Government of Wales Act 2006 \(c. 32\)](#). Under subsection (5) the Welsh Ministers must consult an authority before specifying it in regulations made under subsection (3).
63. Subsections (6) and (7) make provision for the affirmative resolution procedure of Senedd Cymru to apply to regulations made under subsection (3) and for the power to make such regulations to include a power to make transitional or saving provision.
64. New section 10C of the 2013 Act makes provision in relation to guidance to be given to local and other authorities about their functions under new section 10B.
65. Subsections (1) and (2) place duties on the Welsh Ministers to give guidance to local authorities about the authorities’ performance of their duties under section 10B

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and to give guidance to any public authority specified in regulations made under section 10B(3) about the authority's performance of its duties under the regulations.

66. Under subsection (3), before giving or revising guidance under section 10C, the Welsh Ministers must consult the authority or authorities to which the guidance relates and any other persons the Welsh Ministers consider appropriate.
67. Subsection (4) places a duty on any authority to which guidance is given under section 10C to have regard to it in performing its duties under section 10B or, as the case may be, under regulations made under section 10B.

### **National air quality strategy**

68. Section 80 of the Environment Act 1995<sup>1</sup> requires the publication of a national air quality strategy.
69. Section 80(4A) of the Environment Act 1995 sets out when the national air quality strategy must be reviewed and, if appropriate, modified.
70. It provides that the strategy must, in effect, be reviewed by 1 May 2023 and, subsequently, within each period of 5 years beginning with the day on which the most recent review was completed.

### ***Section 12 - Power to change review period for strategy***

71. Subsection (1) inserts new subsection (8) into section 80 of the 1995 Act. It gives the Welsh Ministers a new regulation making power to amend the review period for the national air quality strategy set out in section 80(4A) of that Act.
72. Subsection (2) amends section 87 of the 1995 Act (regulations for the purpose of Part 4) so that any regulations made under the new power in section 80(8) of the 1995 Act are subject to the affirmative resolution procedure of Senedd Cymru.

### ***Section 13 - Consultation on review of strategy***

73. This section amends section 80 of the 1995 Act by disapplying the consultation and publication requirements in respect of the national air quality strategy in subsections (6) and (7) in relation to Wales and replacing them with new requirements in new subsection (10).
74. New subsection (10) provides that when reviewing the national air quality strategy, the Welsh Ministers must consult with the Natural Resources Body for Wales, every local authority in Wales, every Local Health Board established under section 11 of the [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), every National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006, every public services board (within the meaning of Part 4 of the [Well-being of Future Generations \(Wales\) Act 2015 \(anaw. 2\)](#)), the Future Generations Commissioner for Wales, Transport for Wales and the public.

### ***Section 14 - Duty to have regard to strategy***

75. Subsection (1) inserts new section 81B into the 1995 Act.
76. Subsection (1) of section 81B requires Welsh local authorities and relevant Welsh public authorities to have regard to the policies published by the Welsh Ministers in the national air quality strategy under section 80 of the 1995 Act when exercising any function of a public nature that could affect the quality of air in Wales.

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<sup>1</sup> Functions of the Secretary of State under Part IV of the [Environment Act 1995 \(c. 25\)](#) were transferred in relation to Wales to the National Assembly for Wales by virtue of article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). These functions were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the [Government of Wales Act 2006 \(c.32\)](#)

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77. Under subsections (2) and (3) of section 81B, a person is a “relevant Welsh public authority” if they have been designated as such by regulations made by the Welsh Ministers.
78. However, the Welsh Ministers may only designate a person as a “relevant Welsh public authority” if they meet the definition of “devolved Welsh authority” in section 157A(1) (a) of the Government of Wales Act 2006. This means a person can only be designated if they are a public authority (i) whose functions are exercisable only in relation to Wales, and (ii) are wholly or mainly functions that do not relate to reserved matters. Public authority is defined in section 157(A)(8) of the Government of Wales Act 2006 as “a body, office or holder of an office that has functions of a public nature”.
79. Subsection (4) of section 81B provides that before making regulations under subsection (3) of section 81B, the Welsh Ministers must consult the person who is proposed to be designated as a “relevant Welsh public authority” and such other persons as the Welsh Ministers consider appropriate.
80. [Section 14\(2\)](#) amends section 87(2) of the 1995 Act (regulations for the purposes of Part 4) to add references to “relevant Welsh public authority” where appropriate in that subsection.
81. [Section 14\(3\)](#) amends section 88 of the 1995 Act (guidance for the purposes of Part 4). It inserts new subsections (4) and (5) into section 88. New subsection (4) provides the Welsh Ministers with the power to issue guidance to relevant Welsh public authorities in relation to the discharge of any duties placed on them by virtue of section 81B of the 1995 Act or regulations made by the Welsh Ministers under Part 4 of that Act. New subsection (5) places a duty on relevant Welsh public authorities to have regard to guidance published by Welsh Ministers under new subsection (4) when exercising any powers or discharging any duties to which the guidance relates.
82. Subsection (4) amends section 91 of the 1995 Act (interpretation of Part 4) to add a reference to relevant Welsh public authority, stating it has the meaning set out in section 81B(2).

## **Air quality regulations**

### ***Section 15 - Consultation on air quality regulations***

83. Section 87 of the 1995 Act contains general provisions that apply to regulations that are made for the purposes of Part 4 of that Act.
84. [Section 15](#) of this Act inserts new subsections (7A) and (7B) into section 87 of the 1995 Act. These have the effect of disapplying the consultation requirements in subsection (7) in relation to Wales and replacing them with new requirements.
85. These requirements provide that before making regulations under Part 4 of the 1995 Act, the Welsh Ministers must consult: the Natural Resources Body for Wales; every local authority in Wales; the Public Health Wales National Health Service Trust; every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 and the public.

## **Local air quality management**

86. Under Part 4 of the 1995 Act, local authorities in Wales are responsible for managing air quality at local level, through the Local Air Quality Management process (LAQM). The LAQM process requires local authorities to periodically review and assess air quality in their area, and to designate air quality management areas and produce action plans for those areas where air quality is found to be at risk of exceeding pollutant standards and objectives.



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87. Section 82 of the 1995 Act makes provision for every local authority in Wales to conduct a review of the quality, and the likely future quality within the relevant period, of air within the authority's area. Where a local authority carries out such a review, it must also make an assessment of whether air quality standards and objectives are being achieved or are likely to be achieved within the relevant period within the authority's area.
88. Following an air quality review, if it appears that any air quality standards or objectives are not being achieved or are not likely to be achieved within the period prescribed in regulations, the local authority must designate any part of its area in which those standards are not being achieved, as an air quality management area or "designated area".

### ***Section 16 - Local authority air quality reviews***

89. **Section 16** inserts a new subsection (1A) into section 82 of the 1995 Act. The effect of this new subsection is to require every local authority in Wales to conduct an air quality review every calendar year, rather than from time to time.

### ***Section 17 - Action plans in relation to air quality management areas***

90. **Section 17** inserts a new section 83B into the 1995 Act. This section applies in relation to local authorities in Wales, and in part re-enacts section 84 of the 1995 Act (duties of Scottish and Welsh local authorities in relation to designated areas) which is disapplied in relation to Welsh local authorities by section 17(2) of the Act.
91. New section 83B(2) requires a local authority to prepare an action plan in relation to a designated area and send a copy to the Welsh Ministers for approval. Section 83B(8) provides that the plan does not take effect unless it is approved by the Welsh Ministers.
92. **Section 83B(3)** requires an action plan to set out how the local authority will exercise its functions to secure that air quality standards and objectives are achieved in the area covered by the plan, and to specify, in relation to each standard and objective, a date by which the local authority will aim to achieve that standard or objective.
93. **Section 83B(4)** provides that an action plan must also set out how the local authority intends to exercise its functions to secure that air quality standards and objectives are maintained once they have been achieved in the area to which the plan relates. Section 83B(5) provides that an action plan must specify the particular measures to be taken to secure the achievement, and maintenance, of air quality standards and objectives in the area covered by the plan, and specify a date by which each measure will be carried out.
94. **Section 83B(6)** provides that a local authority may prepare revisions to an action plan at any time. However, the authority must revise an action plan if it considers that further or different measures need to be taken in order to achieve the air quality standards and objectives identified in the plan by the date set under section 83B(3)(b) and in order to maintain those standards and objectives in the area covered by the plan.
95. If an action plan is revised, section 83B(7) provides that the local authority must send copies of the revisions to the Welsh Ministers for approval. Under section 83B(8), the revision to the plan does not take effect unless it is approved by the Welsh Ministers.

### ***Section 18 - Welsh Ministers' powers of direction***

96. **Section 18** amends section 85 of the 1995 Act. Section 85(3) sets out the circumstances in which the Welsh Ministers may give a direction to a local authority to take the steps contained in the direction.
97. **Section 18** inserts new paragraphs (e) and (f) into section 85(3). New section 85(3)(e) means that if a local authority in Wales has failed to carry out a measure specified in an action plan by the date specified in the plan in relation to that measure, the

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Welsh Ministers can direct the local authority to take specified steps. New section 85(3) (f) means that if an air quality standard or objective has not been achieved, within a designated area in Wales, by the date specified in the action plan as the date by which the standard or objective is expected to be achieved, the Welsh Ministers can, again, direct the relevant local authority to take specified steps.

## **Smoke control**

### ***Section 19 – Regulation of smoke and fuel in smoke control areas***

98. [Section 19](#) inserts new sections 19E – 19H into Part 3 of the Clean Air Act 1993<sup>2</sup> (c. 11) (referred to as “the 1993 Act” in these Explanatory Notes). Part 3 of the 1993 Act makes provision for the control and prevention of air pollution by smoke and other related emissions.
99. Section 18 of the 1993 Act enables a local authority to make a smoke control order declaring the whole or any part of its area a smoke control area. Under section 19 of the 1993 Act, the Welsh Ministers can, in certain circumstances, direct a local authority in Wales to exercise its powers to create a smoke control area.
100. New section 19E of the 1993 Act applies Schedule 1A to the 1993 Act to Wales so that the unauthorised emission of smoke in a smoke control area attracts a civil penalty. Part 1 of Schedule 1 to the Act makes further amendments to Schedule 1A to the 1993 Act for this purpose. The criminal offences in section 20 of the 1993 Act are repealed in relation to Wales (see paragraph 12 of Schedule 1 to the Act).
101. New section 19F(1)(a)-(c) of the 1993 Act makes it an offence to acquire any solid fuel for use in a building, fireplace, fixed boiler or industrial plant to which a smoke control order in Wales applies. These offences do not apply to authorised fuels. Under new section 19G(3), the Welsh Ministers may keep a list of authorised fuels and where they do so, they must publish it.
102. The offence in section 19F(1)(b) does not apply if, at the time the solid fuel is acquired, the fireplace in question is on the list of exempt fireplaces published by the Welsh Ministers under new section 19G(1). The Welsh Ministers can only include a fireplace on the list if they are satisfied that the fireplace can, if used in compliance with any conditions specified in the list, be used for burning unauthorised solid fuel without producing any smoke or a substantial quantity of smoke.
103. New section 19F(1)(d) of the 1993 Act makes it an offence to sell unauthorised fuel for delivery to a building to which a smoke control order in Wales applies or to premises with a fixed boiler or industrial plant to which a smoke control order in Wales applies. No offence is committed if the person selling the fuel can establish one of the defences in section 19F(5).
104. The offence in new section 19F(1)(d) of the 1993 Act does not apply to authorised fuels.
105. Under new section 19H(1)(b) of the 1993 Act, the Welsh Ministers can suspend or relax the operation of the offences in section 19F(1)(a)-(d) in relation to the whole or part of a particular smoke control area in Wales. They can only do so if it appears necessary or expedient to do so and they have first consulted the local authority that declared the smoke control area in question (unless consultation is impracticable due to urgency).
106. Under section 19H(1)(a), the Welsh Ministers can also suspend or relax the operation of Schedule 1A to the 1993 Act in relation to the whole or part of a smoke control area in Wales. They can only do so if it appears necessary or expedient to do so and they

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<sup>2</sup> Functions of the Secretary of State under Part 3 of the [Clean Air Act 1993 \(c. 11\)](#) were transferred in relation to Wales to the National Assembly for Wales by virtue of article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). These functions were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the [Government of Wales Act 2006 \(c. 32\)](#)

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must first consult the local authority that declared the smoke control area in question (unless consultation is impracticable due to urgency).

### ***Section 20 – Guidance for local authorities in relation to smoke control areas***

107. This section amends the 1993 Act to insert a new section 28B which requires local authorities in Wales to have regard to any guidance published by the Welsh Ministers about the exercise of the local authority’s functions under Part 3 of the 1993 Act.

### ***Section 21 - Further provision relating to smoke control***

108. This section introduces Schedule 1 to the Act, which makes further provision in relation to smoke control.

### ***Schedule 1***

#### **Part 1**

109. This part makes various amendments to Schedule 1A to the 1993 Act to allow for the civil sanctions regime contained in that Schedule to apply in relation to Wales.

#### **Part 2**

110. This part omits provisions in Schedule 2 to the 1993 Act that require local authorities, in certain circumstances, to reimburse owners or occupiers of old private dwellings for expenditure incurred to avoid a contravention of section 20 of that Act.

#### **Part 3**

111. This Part makes other amendments to the 1993 Act in consequence of the provision made by Parts 1 and 2 of this Schedule, and by sections 19 and 20 of this Act.
112. It also makes amendments to Schedules 1 and 5 to the 1993 Act in relation to the publication of notices about smoke control orders by local authorities on their websites.

### **Vehicle emissions**

### ***Section 22 – Trunk road charging schemes***

113. [Section 22](#) of the Act amends section 167 of the [Transport Act 2000](#) <sup>3</sup>(c. 38) (referred to as “the 2000 Act” in these Explanatory Notes), which sets out the circumstances in which the Welsh Ministers may make trunk road charging schemes.
114. [Section 22\(2\)\(a\)](#) amends section 167(2) of the 2000 Act so that it applies only to a charging scheme made by the Secretary of State, and no longer applies to a charging scheme made by the Welsh Ministers.
115. [Section 22\(2\)\(b\)](#) inserts new subsections (3) and (4) into section 167 of the 2000 Act. These subsections apply to trunk road charging schemes made by the Welsh Ministers.
116. Subsection (3) sets out the circumstances in which the Welsh Ministers may make a trunk road charging scheme. The circumstances set out in subsection (3)(a) and (c) are similar to the circumstances in which the Welsh Ministers were already able to make such charging schemes. However, subsection (3)(b) adds a new set of circumstances in which the Welsh Ministers may make a trunk road charging scheme: the Welsh Ministers may now make a scheme if the purpose of the scheme is to reduce or limit air pollution in the vicinity of that road. The new subsection (4) provides that subsection (3)

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<sup>3</sup> Functions conferred on the National Assembly for Wales under the Transport Act 2000 (c. 38) were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32)

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(b) does not prevent a scheme being made under subsection (3)(c) for the purpose of reducing or limiting air pollution.

### ***Section 23 – Further provision relating to trunk road charging schemes***

117. This section introduces Schedule 2 to the Act, which makes provision for and in connection with the application of the net proceeds of trunk road charging schemes made for the purposes of reducing or limiting air pollution.

#### ***Schedule 2***

118. Schedule 12 to the 2000 Act includes financial provision about trunk road charging schemes.

119. Paragraphs 2 and 3 of Schedule 2 to the Act make consequential amendments to Schedule 12 to the 2000 Act in relation to the changes made to section 167 of that Act by section 22 of the Act.

120. Paragraph 13 of Schedule 12 to the 2000 Act makes provision about the proceeds of trunk road charging schemes made under section 167(2) of the 2000 Act. Paragraphs 4, 5 and 6 of Schedule 2 to the Act amend paragraph 13 of Schedule 12 and insert new paragraphs 14 and 15 into Schedule 12 in respect of trunk road charging schemes made by the Welsh Ministers under section 167(3) of the 2000 Act. These amendments and new provisions mean that:

- a) If the Secretary of State makes a trunk road charging scheme under section 167(2) of the 2000 Act, paragraph 13 of Schedule 12 to that Act applies to that scheme.
- b) If the Welsh Ministers make a trunk road charging scheme under section 167(3) of the 2000 Act either wholly or partially for the purpose of reducing or limiting air pollution, new paragraph 14 of Schedule 12 to the 2000 Act applies to that scheme. This means that, as soon as reasonably practicable after the scheme is made, the Welsh Ministers must publish a statement confirming the matters listed in new paragraph 14(2) of Schedule 12 to the 2000 Act. This statement must also be laid before the Senedd Cymru as soon as reasonably practicable after the scheme is made.
- c) If the Welsh Ministers make a trunk road charging scheme under section 167(3) of the 2000 Act that is not wholly or partially for the purpose of reducing or limiting air pollution, new paragraph 15 of Schedule 12 to the 2000 Act applies to that scheme. This provision has the same effect as paragraph 13 of Schedule 12 to the 2000 Act in relation to such schemes.

121. Paragraph 7 of Schedule 2 to the Act amends section 197 of the 2000 Act in order to specify the Senedd procedures that apply to regulations made under new paragraph 15 of Schedule 12 to the 2000 Act. It does so by setting out, in full, the procedural requirements that apply to regulations made by the Welsh Ministers under Part 3 of that Act.

### ***Section 24 – Stationary idling offence: fixed penalty***

122. Section 87 of the 1995 Act enables the Welsh Ministers to make various provisions in regulations for the purposes of Part 4 of that Act. This includes provision enabling a person to discharge liability to conviction for an offence by paying a penalty of an amount prescribed in the regulations (a “fixed penalty”).

123. Section 24(2)(a) of the Act amends and inserts new provision into section 87(2)(o) of the 1995 Act so that, in the case of a stationary idling offence prescribed by the Welsh Ministers, regulations under section 87 of the 1995 Act can, instead, prescribe a monetary range within which the amount of the penalty may be set.

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124. A “stationary idling offence” is defined in new section 87(2B) of the 1995 Act, which is inserted by section 24(2)(b) of the Act.
125. [Section 24\(3\)](#) amends Schedule 11 (air quality: supplemental provision) to the 1995 Act, to include in the definition of fixed penalty, an amount falling within a prescribed monetary range. It also amends the definition of “fixed penalty notice” in that Schedule to reflect this change.

## **Part 2 – Soundscapes**

### **National soundscapes strategy**

126. Prior to the passage of this Act, there was no duty on Welsh Ministers to publish a national strategy on soundscapes. However, the Environmental Noise (Wales) Regulations 2006 provide that Welsh Ministers must make and adopt strategic noise maps and must draw up noise action plans, and prescribes what they must contain. The provisions in this Act place a duty on Welsh Ministers to prepare and publish a national strategy on soundscapes which can incorporate the strategic noise maps and noise actions plans required under regulations 7 and 17 of the Environmental Noise (Wales) Regulations 2006.

### ***Section 25 - National strategy on soundscapes***

127. Subsection (1) places a duty on Welsh Ministers to prepare and publish a national strategy containing their policies in relation to the assessment, management and design of soundscapes in Wales.
128. Subsection (2) requires the strategy to include policies for assessing and effectively managing noise pollution. In accordance with subsection (3), the Welsh Ministers are required to keep these policies under review. In accordance with subsection (4), the Welsh Ministers may modify the strategy.
129. Subsection (5) requires the Welsh Ministers to review and, if appropriate, modify the strategy within 5 years of the date on which the strategy is first published and, subsequently, within each period of 5 years beginning with the day on which the last review was completed.
130. Subsection (6) provides that the Welsh Ministers, when reviewing or preparing the strategy, must have regard to scientific knowledge relevant to soundscapes and the most recent strategic noise maps adopted under regulation 23 of the Environmental Noise (Wales) Regulations 2006. Subsection (6) also provides that in preparing or reviewing the strategy, the Welsh Ministers must consult with the Natural Resources Body for Wales, every local authority in Wales, every Local Health Board established under section 11 of the National Health Service (Wales) Act 2006, every National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006, every public services board (within the meaning of Part 4 of the Well-being of Future Generations (Wales) Act 2015), the Future Generations Commissioner for Wales, Transport for Wales and the public.
131. Subsection (7) gives the Welsh Ministers the power to amend the review periods referred to in subsection (5).
132. Subsection (8) provides that an existing strategy that fulfils the requirements of subsections (1) and (2) at the time section 25 comes into force can be treated as the strategy prepared and published under subsection (1). In these circumstances, the requirements of subsection (6) do not apply in relation to the preparation of the strategy.
133. Subsection (9) defines local authority for the purposes of this section and section 26 as a county council or county borough council.



***Section 26 – Duty to have regard to national strategy on soundscapes***

134. Subsection (1) requires local authorities and relevant Welsh public authorities to have regard to the policies in the national strategy on soundscapes published under section 25 when exercising any function of a public nature that could affect soundscapes in Wales.
135. Under subsections (2) and (3), a person is a “relevant Welsh public authority” if they have been designated as such by regulations made by the Welsh Ministers.
136. However, the Welsh Ministers may only designate a person as a “relevant Welsh public authority” if they meet the definition of “devolved Welsh Authority” in section 157A(1) (a) of the Government of Wales Act 2006. This means a person can only be designated if they are a public authority (i) whose functions are exercisable only in relation to Wales, and (ii) are wholly or mainly functions that do not relate to reserved matters. Public authority is defined in section 157(A)(8) of the Government of Wales Act 2006 as “a body, office or holder of an office that has functions of a public nature”.
137. Subsection (4) provides that before making regulations under subsection (3), the Welsh Ministers must consult the person who is proposed to be designated as a “relevant Welsh public authority” and such other persons as the Welsh Ministers consider appropriate.

***Section 27 – Power to change cycles for making strategic noise maps and reviewing noise action plans***

138. This section enables the Welsh Ministers, by regulations, to change the intervals at which strategic noise maps must be made and adopted under regulation 7(2) of the Environmental Noise (Wales) Regulations 2006 and to change the period within which reviews of noise action plans under regulation 17(3)(b) of those Regulations must take place.

**Part 3 - General**

***Section 28 – Power to make consequential, transitional etc. provision***

139. This section provides that the Welsh Ministers may, by regulations, make such supplementary, incidental, consequential, transitional or saving provision as they think necessary or appropriate for the purpose of giving full effect to any provision made by or under this Act, including in relation to the provisions contained in this Act.

***Section 29 – Regulations***

140. This section explains how powers to make regulations under this Act are to be exercised and sets out the applicable procedure to be followed in making those regulations.

***Section 30 – Coming into force***

141. This section sets out how the provisions of this Act come into force. The provisions within Part 3 of the Act come into force on the day after the Act receives Royal Assent. Sections 1-6, 8-10, 12-15, 22-27 and Schedule 2, come into force at the end of the period of 2 months beginning with the day on which the Act receives Royal Assent. The other provisions of the Act come into force on a day appointed by the Welsh Ministers.

***Section 31 – Short title***

142. The short title of this Act is the Environment (Air Quality and Soundscapes) (Wales) Act 2024

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## **RECORD OF PROCEEDINGS IN SENEDD CYMRU**

143. The following table sets out the dates for each stage of the Act's passage through the Senedd. The Record of Proceedings and further information on the passage of this Act can be found on the Senedd website at:

[The Environment \(Air Quality and Soundscapes\) \(Wales\) Bill \(senedd.wales\)](#)

<i>Stage</i>	<i>Date</i>
Introduced	20 March 2023
Stage 1 - Debate	12 September 2023
Stage 2 Scrutiny Committee – consideration of amendments	11 October 2023
Stage 3 Plenary - consideration of amendments	21 November 2023
Stage 4 Approved by the Senedd	28 November 2023
Royal Assent	14 February 2024