



Levelling-up and Regeneration Act 2023

2023 CHAPTER 55

PART 6

ENVIRONMENTAL OUTCOMES REPORTS

General

162 Public consultation etc

- (1) An appropriate authority must consult the public before making EOR regulations which contain provision—
 - (a) under [section 152\(1\)](#) (specified environmental outcomes);
 - (b) amending, repealing or revoking relevant existing environmental assessment legislation.
- (2) An appropriate authority must consult such persons as the appropriate authority considers appropriate—
 - (a) before making EOR regulations which contain provision under—
 - (i) [section 154\(1\)](#) to [\(6\)](#) (consents and plans subject to this Part);
 - (ii) [section 159\(2\)](#) (power to provide for further exemptions by Secretary of State direction);
 - (iii) [section 160](#) (enforcement);
 - (iv) [section 164](#) (interaction with existing environmental assessment legislation and the Habitats Regulations);
 - (b) before issuing, modifying or withdrawing any guidance under [section 163](#), which relates to—
 - (i) how the likely impact of a proposed relevant consent or proposed relevant plan on the delivery of a specified environmental outcome should be assessed, or
 - (ii) how the extent to which a relevant consent or relevant plan actually affects the delivery of a specified environmental outcome should be assessed or monitored.

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- (3) EOR regulations may require a public authority to respond, or to respond in a particular way or by a particular time, to a consultation under [subsection \(1\)](#) or [\(2\)](#).
- (4) The requirements to consult in subsections [\(1\)](#) and [\(2\)](#) may be met by consultation carried out before the subsection concerned comes into force.

Commencement Information

II [S. 162](#) in force at 26.12.2023, see [s. 255\(5\)](#)

163 Guidance

- (1) A public authority carrying out a function under this Part, other than under regulations made by a devolved authority acting alone, must have regard to any guidance issued by the Secretary of State in relation to the function.
- (2) A public authority carrying out a function under regulations made under this Part by the Secretary of State acting jointly with one or more devolved authorities must have regard to any guidance issued by the Secretary of State or any of those devolved authorities in relation to the function.
- (3) Before issuing guidance under subsection [\(2\)](#)—
- (a) the Secretary of State must—
 - (i) obtain the consent of the Scottish Ministers so far as the guidance relates to a matter provision about which would be within Scottish devolved legislative competence by virtue of section [157\(3\)](#) or which could be made by the Scottish Ministers;
 - (ii) obtain the consent of the Welsh Ministers so far as the guidance relates to a matter provision about which would be within Welsh devolved legislative competence (see section [157\(7\)](#));
 - (iii) obtain the consent of the relevant Northern Ireland department so far as the guidance relates to a matter provision about which would be within Northern Ireland devolved legislative competence (see section [157\(11\)](#));
 - (b) the Scottish Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would not be within Scottish devolved legislative competence by virtue of section [157\(3\)](#) or which could not be made by the Scottish Ministers;
 - (c) the Welsh Ministers must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Welsh devolved legislative competence (see section [157\(7\)](#));
 - (d) a Northern Ireland department must obtain the consent of the Secretary of State so far as the guidance relates to a matter provision about which would be outside Northern Ireland devolved legislative competence (see section [157\(11\)](#)).
- (4) The “relevant Northern Ireland department” is such Northern Ireland department as the Secretary of State considers appropriate having regard to the material which is to be contained in the guidance concerned.

Changes to legislation: There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Cross Heading: General. (See end of Document for details)

- (5) A public authority carrying out a function under regulations made under this Part by a devolved authority acting alone must have regard to any guidance issued by the devolved authority in relation to the function.
- (6) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 1 of Schedule 14](#) (other than a function under Schedule 3 to the Harbours Act 1964 so far as relating to environmental impact assessments in Scotland) must have regard to any guidance issued by the Secretary of State in relation to the function.
- (7) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 2 of Schedule 14](#) must have regard to any guidance issued by the Scottish Ministers in relation to the function.
- (8) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 3 of Schedule 14](#) must have regard to any guidance issued by the Welsh Ministers in relation to the function.
- (9) A public authority carrying out a function under existing environmental assessment legislation listed in [Part 4 of Schedule 14](#) must have regard to any guidance issued by a Northern Ireland department in relation to the function.
- (10) EOR regulations may require any person carrying out a function under EOR regulations to have regard to guidance issued by an appropriate authority in relation to the function, failing which the function is not to be regarded as having been validly carried out.

Commencement Information

12 [S. 163](#) in force at 26.12.2023, see [s. 255\(5\)](#)

164 Interaction with existing environmental assessment legislation and the Habitats Regulations

- (1) EOR regulations may make provision about, or in connection with, the interaction of this Part with existing environmental assessment legislation or the Habitats Regulations.
- (2) EOR regulations under this section may, in particular, include provision—
 - (a) treating anything done, or omitted to be done, in relation to an environmental outcomes report as satisfying or failing to satisfy a requirement under relevant existing environmental assessment legislation or the relevant Habitats Regulations;
 - (b) treating anything done, or omitted to be done, under existing environmental assessment legislation or the Habitats Regulations as satisfying or failing to satisfy a requirement imposed by or under this Part;
 - (c) about the co-ordination of things done under this Part and things done under existing environmental assessment legislation or the Habitats Regulations;
 - (d) disapplying or otherwise modifying any provision of relevant existing environmental assessment legislation or the relevant Habitats Regulations where preparation of an environmental outcomes report is required under this Part;

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- (e) disapplying or otherwise modifying any provision of this Part or EOR regulations where something is done, or required to be done, under existing environmental assessment legislation or the Habitats Regulations.
- (3) EOR regulations under this section may amend, repeal or revoke relevant existing environmental assessment legislation.
- (4) In this section—
- “the Habitats Regulations” means—
- (a) regulation 5 of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (S.I. 2001/1754);
 - (b) regulation 24 and Part 6 of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);
 - (c) regulations 27 to 37 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 (S.I. 2017/1013);
 - (d) the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716);
 - (e) the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (S.R. (N.I.) 1995/380);
- “the relevant Habitats Regulations” means—
- (a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in the definition of “the Habitats Regulations”;
 - (b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in paragraph (d) of that definition;
 - (c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in the definition of “the Habitats Regulations” so far as it applies in relation to Wales;
 - (d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in paragraph (e) of that definition.

Commencement Information

I3 S. 164 in force at 26.12.2023, see s. 255(5)

165 Consequential repeal of power to make provision for environmental assessment

- (1) TCPA 1990 is amended as follows.
- (2) Omit section 71A (assessment of environmental effects).
- (3) In section 293A (urgent Crown development: application), in subsection (4), omit paragraph (a).

Commencement Information

I4 S. 165 in force at 26.12.2023, see s. 255(5)

Changes to legislation: There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Cross Heading: General. (See end of Document for details)

166 EOR regulations: further provision

- (1) EOR regulations may make provision about or in connection with—
- (a) the procedure to be followed in relation to anything done under this Part, including the time by which anything must be done;
 - (b) who is to prepare an environmental outcomes report, including provision permitting a public authority to determine who is to do so or the qualifications or experience a person must have to do so;
 - (c) requiring a public authority to assist with any assessment or monitoring under this Part;
 - (d) the publication of, and consultation and public engagement in connection with, environmental outcomes reports and other relevant documents;
 - (e) the information to be included in, and the content and form of, any relevant document;
 - (f) the persons to whom an environmental outcomes report or other relevant document is to be given, and how it is to be given;
 - (g) the collection or provision of information in connection with this Part;
 - (h) the rejection of a relevant document, or information provided in connection with this Part, if it is not provided in accordance with [Chapter 1 of Part 3](#) (planning data), including provision requiring a document or information to be rejected;
 - (i) how, and to what extent, any failure to comply with a requirement imposed by or under this Part is to be taken into account by public authorities in considering, and making decisions in relation to, relevant consents or relevant plans;
 - (j) appeals against, or reviews of, decisions of a public authority about matters for, or in respect of, which provision is made by EOR regulations or existing environmental assessment legislation.
- (2) EOR regulations may—
- (a) provide for the charging of fees or other charges;
 - (b) confer a function, including a function involving the exercise of a discretion, on any person;
 - (c) make consequential, supplementary or incidental provision under [section 252\(1\)\(c\)](#) which amends, repeals or revokes any legislation (whenever passed or made).
- (3) In [subsection \(2\)\(c\)](#) “legislation” means any provision made by or under—
- (a) an Act,
 - (b) an Act or Measure of Senedd Cymru,
 - (c) an Act of the Scottish Parliament,
 - (d) Northern Ireland legislation, or
 - (e) [^{F1}assimilated direct legislation].

Textual Amendments

- F1** Words in [s. 166\(3\)\(e\)](#) substituted (comes into force at the end of 2023) by [Levelling Up and Regeneration Act 2023 \(c. 55\)](#), [ss. 248, 255\(10\)\(b\)](#) (with [s. 247](#))

Changes to legislation: There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Cross Heading: General. (See end of Document for details)

Commencement Information

I5 S. 166 in force at 26.12.2023, see [s. 255\(5\)](#)

167 Interpretation of Part 6

- (1) “Existing environmental assessment legislation” means the legislation listed in [Schedule 14](#).
- (2) “Relevant existing environmental assessment legislation” means—
- (a) in relation to EOR regulations made by the Secretary of State acting alone or jointly with one or more devolved authorities, the legislation listed in [Schedule 14](#);
 - (b) in relation to EOR regulations made by the Scottish Ministers acting alone, the legislation listed in [Part 2](#) of that Schedule;
 - (c) in relation to EOR regulations made by the Welsh Ministers acting alone, the legislation listed in [Part 3](#) of that Schedule;
 - (d) in relation to EOR regulations made by a Northern Ireland department acting alone, the legislation listed in [Part 4](#) of that Schedule.
- (3) In this Part—
- “appropriate authority” means—
- (a) the Secretary of State,
 - (b) a devolved authority, or
 - (c) the Secretary of State acting jointly with one or more devolved authorities;
- “category 1 consent” and “category 2 consent” have the meaning given by [section 154\(1\)](#) and [\(2\)](#);
- “cultural heritage” has the meaning given by [section 152\(4\)](#);
- “devolved authority” means—
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers, or
 - (c) a Northern Ireland department;
- “environmental outcomes report” has the meaning given by [section 153\(4\)](#);
- “environmental protection” has the meaning given by [section 152\(2\)](#);
- “EOR regulations” has the meaning given by [section 152\(1\)](#);
- “existing environmental assessment legislation” has the meaning given by [subsection \(1\)](#);
- “natural environment” has the meaning given by [section 152\(3\)](#);
- “project” has the meaning given by [section 154\(9\)](#);
- “proposed”, in relation to a relevant consent or relevant plan, is to be construed in accordance with [section 154\(7\)](#);
- “public authority” means—
- (a) any person with functions under, or functions in respect of which provision is made by, existing environmental assessment legislation when this Act is passed;
 - (b) any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal;
- “relevant consent” has the meaning given by [section 154](#);

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“relevant document” means a document or information for, or in respect of, which provision is made by EOR regulations or existing environmental assessment legislation;

“relevant existing environmental assessment legislation” has the meaning given by subsection (2);

“relevant offshore area” means any area in—

- (a) the territorial sea adjacent to the United Kingdom,
- (b) any area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964, or
- (c) any area designated by Order in Council under section 41(3) of the Marine and Coastal Access Act 2009;

“relevant plan” has the meaning given by [section 154\(6\)](#);

“specified environmental outcome” has the meaning given by [section 152\(1\)](#).

Commencement Information

I6 [S. 167](#) in force at 26.12.2023, see [s. 255\(5\)](#)

Changes to legislation:

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