Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Natural Resources Body for Wales (Establishment) Order 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2012 No. 1903 (W.230)

PUBLIC BODIES, WALES
ENVIRONMENTAL PROTECTION, WALES

The Natural Resources Body for Wales (Establishment) Order 2012

Made - - - -	*18 July 2012*
Coming into force - -	*see article 1*

The Welsh Ministers, in exercise of the powers conferred on them by sections 13(7) and 15(1) of the Public Bodies Act 2011(**1**) ("the Act"), make the following Order.

In accordance with section 16 of the Act, the Welsh Ministers consider that this Order—

(a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 16(1) of the Act;

(b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The Welsh Ministers have carried out consultation in accordance with section 18 of the Act.

A draft of this Order and an explanatory document containing the information required by section 19(2) of the Act have been laid before the National Assembly for Wales in accordance with section 19(1) after the end of the period of twelve weeks mentioned in section 19(3).

In accordance with section 19(4) of the Act, the draft of this Order so laid has been approved by resolution of the National Assembly for Wales after the expiry of the 40-day period referred to in that provision.

PART 1 —
PRELIMINARY

Title and commencement

1.—(1) The title of this Order is the Natural Resources Body for Wales (Establishment) Order 2012.

(**1**) 2011 c. 24.

(2) This Order comes into force on the day after the day on which it is made.

Commencement Information
I1 Art. 1 in force at 19.7.2012, see **art. 1(2)**

Interpretation

2. In this Order, "the Body" ("*y Corff*") has the meaning given by article 3(1).

Commencement Information
I2 Art. 2 in force at 19.7.2012, see **art. 1(2)**

PART 2 —
ESTABLISHMENT AND GENERAL FUNCTIONS

The Body

3.—(1) There is to be a body corporate to be known as the Natural Resources Body for Wales or Corff Adnoddau Naturiol Cymru (referred to in this Order as "the Body").

(2) The Schedule contains further provisions about the Body.

Commencement Information
I3 Art. 3 in force at 19.7.2012, see **art. 1(2)**

Purpose of the Body

4.—(1) The purpose of the Body is to ensure that the environment and natural resources of Wales are—

(a) sustainably maintained;

(b) sustainably enhanced; and

(c) sustainably used.

(2) In this article—

(a) "sustainably" ("*yn gynaliadwy*") means—

(i) with a view to benefitting, and

(ii) in a manner designed to benefit,

the people, environment and economy of Wales in the present and in the future;

(b) "environment" ("*amgylchedd*") includes, without limitation, living organisms and ecosystems.

(3) Wherever the Body exercises any function in relation to, or that affects, the Welsh zone (as defined in section 158(1) of the Government of Wales Act 2006(**2**)), both the references to "Wales" in paragraph (1) are to be interpreted as including references to the Welsh zone.

(4) Wherever the Body exercises a function in relation to, or in a manner that affects, any other area outside Wales, both the references to "Wales" in paragraph (1) are to be interpreted as including references to the area in question.

(5) Paragraph (1) does not give the Body power to—

(a) do anything that it would not otherwise have the power to do, or

(b) exercise any of its functions in a manner contrary to the provisions of any other enactment or any EU obligation(**3**).

Commencement Information

I4 Art. 4 in force at 19.7.2012, see **art. 1(2)**

Guidance with respect to the Body's purpose

5.—(1) The Welsh Ministers may give guidance to the Body with respect to the manner in which it should exercise its functions so as to give effect to its purpose.

(2) In preparing any guidance under paragraph (1), the Welsh Ministers must have regard to the Body's responsibilities and resources.

(3) In discharging its functions, the Body must have regard to guidance given under this article.

(4) Before giving guidance to the Body under this article, the Welsh Ministers must consult the Body and such other bodies or persons as the Welsh Ministers consider appropriate.

(5) The Welsh Ministers must publish any guidance given under this article as soon as is reasonably practicable after giving the guidance.

(6) The power to give guidance under this article includes power to vary or revoke it.

Commencement Information

I5 Art. 5 in force at 19.7.2012, see **art. 1(2)**

Initial functions of the Body

6.—(1) The Body has the functions set out in sub-paragraphs (a) and (b)—

(a) the function of facilitating the implementation of any proposal of the Welsh Ministers for the transfer (with or without modification) to the Body of—

(i) any function of the Countryside Council for Wales;

(ii) any Welsh devolved function(**4**) of the Environment Agency or the Forestry Commissioners;

(iii) any function of a Welsh Flood and Coastal Committee(**5**);

(**2**) 2006 c. 32 (section 158(1)). The definition of the "Welsh zone" was inserted by section 43(2) of the Marine and Coastal Access Act 2009 (c. 23).

(**3**) "EU obligation" is defined in Schedule 1 to the European Communities Act 1972 (c. 68), as amended by the European Union (Amendment) Act 2008 (c. 7; see section 3 and the Schedule). This definition applies to other legislation by virtue of section 5 of, and Schedule 1 to, the Interpretation Act 1978 (c. 30).

(**4**) *See* section 36(1) of the Public Bodies Act 2011 (c 24).

(**5**) *See* section 13(8) of the Public Bodies Act 2011.

(iv) any of their own functions relating to the environment; or

(v) any Welsh environmental function(**6**) of any person;

(b) the function of facilitating the implementation of any other proposal of the Welsh Ministers made in association with any proposals falling within sub-paragraph (a) which—

(i) relates to the subject-matter of those proposals, or

(ii) is consequential on those proposals, or supplementary or incidental to them, or relates to transitional matters.

(2) Paragraph (1) applies to a proposal of the Welsh Ministers regardless of whether the National Assembly for Wales or any other person or body has given any consent or approval on which, by law, implementation of that proposal depends, but does not obviate the need for any such consent or approval to be obtained before the proposal can be implemented.

7.—(1) The Body must carry out its functions under article 6(1) according to the criteria set out in the following paragraphs.

(2) The first criterion is that the Body must ensure, so far as possible without compromising the achievement of its functions under article 6(1), that there is effective co-operation in relation to the implementation of any proposal between itself, the Welsh Ministers, and any other person or body which is—

(a) referred to in article 6(1)(a), and

(b) affected by the relevant proposal.

(3) The second criterion is that the Body must not interfere with the effective carrying out by any of the persons or bodies mentioned in article 6(1)(a) of any of their functions.

Commencement Information

I6 Art. 6 in force at 19.7.2012, see **art. 1(2)**

I7 Art. 7 in force at 19.7.2012, see **art. 1(2)**

General duty of the Body to have regard to costs and benefits in exercising powers

8.—(1) In considering whether or not to exercise any power conferred upon it by or under any enactment, the Body must take into account the likely costs and benefits of the exercise or non-exercise of that power.

(2) In deciding the manner in which to exercise any such power, the Body must take into account the likely costs and benefits of its exercise in the manner in question.

(3) The duties in paragraphs (1) and (2) apply unless, or to the extent that, it is unreasonable for the Body to be subject to them in view of the nature or purpose of the power or in the circumstances of the particular case.

(4) But those duties do not affect the Body's obligation to discharge any duties, comply with any requirements, or pursue any objectives, imposed upon or given to it by any enactment other than this article.

Commencement Information

I8 Art. 8 in force at 19.7.2012, see **art. 1(2)**

(**6**) *See* section 36(1) of the Public Bodies Act 2011.

General incidental function of the Body

9.—(1) The Body may do anything that appears to it to be conducive or incidental to the discharge of its functions.

(2) In particular, the Body may—

(a) enter into agreements;

(b) acquire or dispose of property and carry out such engineering or building operations as it considers appropriate;

(c) subject to the approval of the Welsh Ministers, form bodies corporate or acquire or dispose of interests in bodies corporate;

(d) form charitable trusts;

(e) accept gifts;

(f) invest money.

(3) In this article "engineering or building operations" ("*gwaith peirianyddol neu waith adeiladu*"), without prejudice to the generality of that expression, includes—

(a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works, and

(b) the installation, modification or removal of any machinery or apparatus.

Commencement Information
I9 Art. 9 in force at 19.7.2012, see **art. 1(2)**

Advice and assistance to Welsh Ministers

10. The Body must provide the Welsh Ministers with such advice and assistance as they may request.

Commencement Information
I10 Art. 10 in force at 19.7.2012, see **art. 1(2)**

Directions

11.—(1) The Welsh Ministers may give the Body general or specific directions as to the exercise of its functions.

(2) The Welsh Ministers must publish any directions given under this article as soon as is reasonably practicable after giving the directions.

(3) The power to give directions under this article includes power to vary or revoke the directions.

(4) The Body must comply with any directions given under this article.

Commencement Information
I11 Art. 11 in force at 19.7.2012, see **art. 1(2)**