
Environment (Air Quality and Soundscapes) (Wales) Bill

Stage 2 amendments

November 2023



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This briefing summarises Stage 2 of the Environment (Air Quality and Soundscapes) (Wales) Bill's passage through the Senedd.

During **Stage 2** of a Bill's scrutiny, Members of the Senedd table amendments which are debated and voted on by a committee. Only members of the responsible committee can vote on amendments. Once the last amendment has been voted on, the Bill moves to Stage 3 where further amendments are tabled. Selected amendments are debated and voted on by the Senedd in Plenary.

Stage 2 consideration of the Environment (Air Quality and Soundscapes) (Wales) Bill (the Bill), by the Climate Change, Environment and Infrastructure Committee (the Committee), began on 13 September 2023 and concluded on 11 October when the Committee met to consider the Stage 2 amendments. 87 amendments were tabled, with 22 agreed.

Further detail on the Bill's provisions and its scrutiny during Stage 1 is available on [our Bill resource page](#). Other key documents include:

- [Environment \(Air Quality and Soundscapes\) \(Wales\) Bill](#) and [Explanatory Memorandum](#) as introduced;
 - [Environment \(Air Quality and Soundscapes\) \(Wales\) Bill as amended](#) at Stage 2;
 - Climate Change, Environment and Infrastructure Committee [Stage 1 Report](#) and [Welsh Government response](#);
 - [Grouped list of Stage 2 amendments](#); and
 - [Marshalled list of Stage 2 amendments](#).
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1. Introduction

The Bill was introduced to the Senedd on 20 March 2023 by the Minister for Climate Change, Julie James MS (the Minister). During the Stage 1 debate, it was confirmed that the Deputy Minister for Climate Change, Lee Waters MS (the Deputy Minister) had **taken responsibility for the Bill**.

The Welsh Government says the Bill is part of a package of measures set out in its **Clean Air Plan** to reduce air pollution.

If enacted, the Bill would create an air quality target setting framework allowing the Welsh Ministers to set Wales-specific targets for air pollutants.

It also:

- requires the Welsh Ministers to consult on and publish a national air quality strategy;
- places a duty on the Welsh Ministers to promote awareness of air pollution;
- aims to strengthen the **Local Air Quality Management regime** by requiring any actions/standards in a local authority's Air Quality Action Plan to contain a date for compliance agreed with the Welsh Ministers;
- aims to improve enforcement of emissions in **Smoke Control Areas**, switching from criminal to civil sanctions;
- expands the circumstances under which the Welsh Ministers can introduce trunk road charging schemes;
- allows the Welsh Ministers to set a monetary range within which penalty charges for vehicle idling offences can be issued; and
- places a duty on the Welsh Ministers to publish a national soundscapes strategy.

2. Stage 2 amendments

The Committee considered the 87 tabled amendments to the Bill **on 11 October 2023**. Twenty two were agreed – 17 of which were government amendments.

Amendments were **grouped** to facilitate debate - there were 13 groups. The **marshalled list** sets out the amendments in the order in which they were disposed of.

Eighteen amendments were brought forward by the Deputy Minister, 44 by Janet Finch-Saunders MS, 19 by Delyth Jewell MS, three by Jenny Rathbone MS and three by Huw Irranca-Davies MS.

Details of the amendments from each group, along with their fate, are set out below.

Group 1: Air quality targets- requirement to set air quality targets

This group included 21 amendments, one of which was agreed.

Government amendment 1, which was agreed, states the Welsh Ministers must ensure that “ambient air” is defined for the purposes of each PM_{2.5} air quality target. The Deputy Minister outlined this amendment was tabled in response to recommendations 18 and 19 in the **Legislation, Justice and Constitution (LJC) Committee’s report** on the Bill. He stated this amendment provides flexibility for the Welsh Ministers to have different definitions of ambient air for different targets.

Unsuccessful amendment 19, tabled by Janet Finch-Saunders MS, would have amended the Bill so the Welsh Ministers ‘must’ set long-term targets for air quality rather than ‘may’. Amendment 20, tabled by the same Member, would have required the Welsh Ministers to set at least one target in respect of one or more of the pollutants listed in a new section (PM₁₀, ground level ozone, nitrogen dioxide, carbon monoxide and/or sulphur dioxide). Amendment 22 would have had the effect of including specific reference to transboundary pollutants in the Bill. The Deputy Minister stated the Explanatory Memorandum (EM) will be updated to ensure the scientific knowledge, advice and evidence will include information about transboundary pollutants. Amendment 28 would have required the Welsh Ministers to set targets within two years of the Bill receiving Royal Assent, rather than the three year period in the Bill. The Deputy Minister stated this would not be deliverable for PM_{2.5} and other pollutants.

Amendment 68, tabled by Delyth Jewell MS, would have required the Welsh Ministers to consult Natural Resources Wales (NRW), local authorities, Public Health Wales, Local Health Boards and the public when setting targets. Amendments 66 and 67, tabled by the same Member, would have required the Welsh Government to set targets, and also removed reference to these being long term – giving the option of setting short or long term targets.

The remainder of amendments in this group were technical.

Group 2: Air quality targets: Having regard to World Health Organisation guidelines

This group included three amendments, two of which (tabled by Jenny Rathbone MS) were agreed. Amendments 85 and 86 require the Welsh Ministers to have regard to the **World Health Organisation’s (WHO)** most recent **global air quality guidelines** when setting and reviewing air quality targets. This is in line with recommendation 9 of the **CCEI Committee’s report** which asked for the Bill to be amended to have regard to WHO air quality guidelines when setting targets. The two amendments apply this regard to both the setting and reviewing of targets.

Unsuccessful amendment 69, tabled by Delyth Jewell MS, called on the Welsh Ministers to have regard to “relevant internationally recognised guidelines and targets”, including, but not limited to, the most recent WHO air quality targets.

Group 3: Air quality targets: Maintaining air quality standards

This group contained four amendments, three tabled by the Government, and one (3A) by Jenny Rathbone MS. All amendments in this group passed.

Government amendment 3 adds a new section to the Bill on maintaining air quality standards. The effect is that, when a specified date for a target has been reached, or the standard for the target has been achieved, the Welsh Ministers are placed under a duty to maintain that standard. Reporting requirements will also be put in place regarding the performance of that duty. The Deputy Minister stated reports will need to be produced annually. The Welsh Ministers may replace the standard with a lower standard, or revoke it, only if satisfied that:

- meeting the standard would have no significant benefit compared with not meeting it, or with meeting a lower standard; or
- because of changes in circumstances since the specified standard was set or last lowered, the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits.

Before doing so the Welsh Ministers would need to seek independent expert advice, have regard to scientific knowledge on air pollution, and publish and lay before the Senedd a statement relating to the two points.

Amendment 3A, tabled by Jenny Rathbone MS, adds to the above, calling for the Welsh Government to have regard to the most recent WHO air quality guidelines when making such a decision.

Amendments 2 and 12 were technical amendments.

Group 4: Air quality targets: reporting, reviews and monitoring progress

This group contained eight amendments, two of which, tabled by the Government, were agreed. Government amendment 4 inserts a new section, relating to reporting on targets set in Section 1. It requires the Welsh Ministers to lay before the Senedd and publish a report on the consideration given during that period to setting long-term targets under Section 1. Specifically this applies to targets for ammonia, PM₁₀, ground level ozone, nitrogen dioxide, carbon monoxide and sulphur dioxide.

Recognising the discussion around additional pollutants at Stage 1, the Deputy Minister stated this amendment was drafted following recommendations 5 and 6 from the **CCEI Committee report**, and recommendations 14 and 15 from the **LJC Committee report**. He said “we are working to scope and develop the cases for change and potential target options, with work expected to be complete by spring 2025. We cannot pre-empt the outcome of this work”.

Amendment 31 (tabled by Janet Finch-Saunders MS) would have required the Welsh Ministers to publish a report on why a target had not been met, within six months of the statement being laid (rather than the 12 months proposed in the Bill). Unsuccessful amendment 33, tabled by the same Member, would have required that when a long term target review is undertaken, that review must contain at least one interim target to be achieved before the next review is completed. Amendment 34 called for that review to include, but not be limited to:

- progress made towards achieving the target;
- steps taken in relation to achieving the target;
- the costs incurred in relation to the target; and
- an assessment of the economic effect on the local and national economy.

In response to this amendment, the Deputy Minister stated he understood the intention as being to ensure information about progress towards targets is available to the public. However, he said this is being delivered by the **Clean Air Plan**, but agreed to discuss the amendment further with the Member.

Amendment 70, tabled by Delyth Jewell MS, called for the review period for targets to be changed from five years to 12 months. In response, the Deputy Minister stated the early focus should be on the development and implementation of measures to achieve the targets, rather than reviewing and changing them too soon.

Group 5: Active travel

This group consisted of seven amendments, including one Government amendment. None were agreed. The Deputy Minister and the Committee agreed to withdraw the amendments with the intention of continuing discussions and bringing forward “something even better” at Stage 3.

The amendments focused on a duty to promote active travel to reduce or limit air pollution. Speaking to his amendments (63, 64 and 65), Huw Irranca-Davies MS suggested that the duty to promote active travel within the **Active Travel (Wales) Act 2013** is “too narrow and it consequently had not been effective”. His amendments would have imposed a duty on the Welsh Ministers to publish guidance, which local authorities would be required to have regard to, on their duty to promote active travel within 12 months of the Bill gaining Royal Assent.

Group 6: Stationary idling

This group contained six amendments, three tabled by Delyth Jewell MS and three by Janet Finch-Saunders MS. None were agreed.

The Bill allows the Welsh Ministers, by regulations, to prescribe a monetary range within which local authorities can issue Fixed Penalty Notices for idling offences. Amendment 50, tabled by Janet Finch-Saunders MS would remove these provisions. Amendment 51, tabled by the same Member would have inserted a new section to introduce “designated zones” within 50 metres of schools, hospitals and care homes where idling offences would be punishable by a fixed penalty of £60, while the penalty for offences elsewhere would be set at £20.

Amendments tabled by Delyth Jewell MS would have placed a duty on the Welsh Ministers to promote awareness of how reducing idling can lower air pollution. The amendments would have required the Welsh Ministers to publish guidance on

factors local authorities should take into account when undertaking enforcement action. The **Deputy Minister outlined** that while he did not support these amendments as drafted he “would like to work [together]...for Stage 3, to explore what opportunities there might be for a solution”.

Group 7: National air quality strategy: further requirements

This group contained five amendments – one of which, tabled by the Government, passed. Amendment 5 adds Public Services Boards and the Future Generations Commissioner for Wales to the list of bodies that must be consulted when the national air quality strategy is being reviewed. This amendment gave effect to recommendation 18 of the **Committee’s Stage 1 report**.

Unsuccessful amendments 42 (from Janet Finch-Saunders MS) and 74 (from Delyth Jewell MS) called for the list to be further extended to include: the Clean Air Advisory Panel and Transport for Wales (TfW) respectively. The Deputy Minister’s justification for not including the Clean Air Advisory Panel was that it is not a statutory body. The Deputy Minister agreed to discuss the proposal to add TfW to the list.

Unsuccessful amendment 75, tabled by Delyth Jewell MS, called for a new section to be added, including a duty to report on the strategy each financial year. Although this amendment did not pass, the Deputy Minister outlined the Welsh Government has already committed to publish an update report on progress towards actions in the national air quality strategy. He committed to update the EM to reflect this.

Group 8: Local authority air management: reviews and action plans

This group contained five amendments, none of which passed.

Amendments 44 to 47, tabled by Janet Finch-Saunders MS would have enabled local authorities to seek advice from the Welsh Ministers, before conducting a Local Air Quality Management (LAQM) review, on estimating the costs of implementing the findings of the review. In relation to action plans for Air Quality Management Areas (AQMA), amendment 45 called for these to be developed within 12 months of the AQMA being designated. Amendment 46 called for the action plan to set out what steps the local authority has taken to engage with those persons it considers appropriate for achieving air quality standards and objectives within the designated area. Amendment 47 called for the Welsh Ministers to be required to notify the local authority whether or not the action plan has been approved within three

months of the plan being received. The Deputy Minister committed to explore this further in the guidance.

Amendment 76, tabled by Delyth Jewell MS, would have required local authorities, when conducting a review, to prepare and publish an air quality strategy containing policies for the assessment and management of air quality, and the steps it intends to take to improve air quality in its area. The Committee had **made two recommendations** on this matter. The first (recommendation 20) was to bring forward an amendment requiring local authorities to publish an air quality strategy. The second (recommendation 21) was that in the absence of an amendment, the Welsh Ministers should strengthen LAQM guidance to set a strong expectation for local authorities to develop air quality strategies. The Deputy Minister responded to the amendment by proposing to improve the existing annual progress reporting mechanism for local authorities, rather than adding a new duty to publish strategies.

Group 9: Smoke control areas

This group contained 13 amendments. Eight of these, tabled by the Government, passed.

Government amendment 9, along with consequential amendments 6, 7, 8 and 15 remove the power of the Welsh Ministers to exempt certain fireplaces from the scope of the new civil sanctions for emission of smoke in a smoke control area. The new section (19G) retains the power of the Welsh Ministers to publish lists of “exempt fireplace” for the purposes of the criminal offences set out in section 19F. Provisions in section 19F relating to the Welsh Ministers’ powers to publish lists of “authorised fuel” (omitted by amendment 8) are replaced with new provisions in section 19G.

The Deputy Minister stated these changes will help local authorities implement and enforce the new civil sanctions regime. There is currently no power of entry, so local authorities are unable to disprove any claim made by the householder that they are using an exempt fireplace. He stated this amendment will provide consistency with the approach taken in the Bill in relation to unauthorised fuels.

Government amendment 14, along with consequential amendments 16 and 17, remove the provision for reimbursement of adaptation costs for pre-1964 homes when a new smoke control area is created. As it currently stands, home owners can claim back a minimum of 70% of the adaptation costs from their local authority once a smoke control order has been made. The Deputy Minister stated this could

lead to a significant financial and administrative burden for local authorities, and disincentives to create smoke control areas. He also stated adaptation costs have been retained in certain situations.

The Deputy Minister outlined that both Government amendments were a result of **recommendations made by the Committee**. Recommendation 25 called on the Welsh Government to consider whether and how smoke control coverage could be extended across Wales without adversely impacting households who rely on solid fuels for heating and cooking.

Unsuccessful amendment 77, tabled by Delyth Jewell MS, would have added a new section into the Bill, giving powers to the Welsh Ministers to declare all or part of Wales as a smoke control area. This would have been after consultation with the relevant local authorities. The Deputy Minister highlighted the Welsh Government's preference to let local authorities decide the best course of action, given their knowledge of local circumstances.

Amendment 78, also tabled by Delyth Jewell MS, would have required the Welsh Ministers to issue guidance to local authorities on smoke control areas. This guidance would have set out the circumstances in which a local authority should declare all or part of its area to be a smoke control area.

Janet Finch-Saunders MS tabled three amendments in this group. Amendment 48 would have required the Welsh Ministers to provide a list of exempt fireplaces through regulations. Amendment 59 called for local authorities to publish a notice on their websites when smoke control areas are being brought into operation. The Deputy Minister outlined he is happy to support an amendment to put this on the face of the Bill, but that as tabled it has not been inserted at the appropriate location in the Bill. Amendment 60 was a technical amendment.

Domestic burning

During Stage 1 proceedings, the Committee discussed the need for more action on domestic burning – an issue related to, but not covered by the Bill. The Committee **recommended in its report:**

- the Minister should clarify which measures set out in its consultation on reducing emissions from domestic solid fuel burning could be brought forward using existing regulation-making powers and which would require further primary legislation (recommendation 26); and

- before the Stage 1 debate, the Minister should publish the Welsh Government's response to its consultation on reducing emissions from domestic solid fuel burning, including next steps. The response should include a revised timetable for making regulations that is suitably ambitious (recommendation 27).

On 25 October, the Deputy Minister **wrote to the Committee** to provide an update. He outlined the summary of responses had been published, and that he anticipated regulations (made under section 87 of the Environment Act 1995) would come into force in Autumn 2025. He outlined it is likely there will be a transition period associated with any solid fuel bans or restrictions to allow suppliers to deplete existing stocks. He referenced the recently published **Heat Strategy for Wales**, which outlines the Welsh Government's ambition to transition to low carbon heating.

Group 10: Trunk road charging schemes

This group contained seven amendments, none of which were agreed.

Amendments 49, 61 and 62 tabled by Janet Finch-Saunders MS would have removed all provisions relating to trunk road charging schemes from the Bill.

Amendment 79, tabled by Delyth Jewell MS, would have placed a duty on the Welsh Ministers to consult when making a charging scheme. During Stage 1, the **Deputy Minister told the Committee** that the Welsh Government was already under a general duty to consult when making subordinate legislation and therefore it was unnecessary to include a provision in the Bill.

The remaining amendments in this group, tabled by the same Member, related to net proceeds from trunk road charging schemes. In its **Stage 1 report** the Committee recommended that proceeds from schemes should only be available for "directly or indirectly facilitating the achievement of policies relating to air quality, including active travel". Amendment 82 would have inserted this requirement into the Bill, which does not include any hypothecation on the use of net proceeds.

The **Deputy Minister said** he was "very attracted by the principle" of hypothecation but it can be "problematic for a whole host of other knock-on consequences". The Deputy Minister referred to the Bill's provision requiring the Welsh Ministers to assess the impact of the use of net proceeds on air quality and **stated** he was "prepared to consider at Stage 3 whether we can expand the assessment provided for within the Bill to include active travel".

Group 11: Office for Air Quality Protection

This group contained one amendment, tabled by Janet Finch-Saunders MS.

Amendment 52, which did not pass, called for the creation of a new corporate body, the Office for Air Quality Protection. The amendment called for the Welsh Ministers to lay draft regulations setting out further provision about the body within 12 months of the Bill receiving Royal Assent. The Member highlighted the absence of an environmental governance body. The Deputy Minister responded that a Bill relating to environmental governance and biodiversity targets is scheduled for introduction in this Senedd term. He said he would welcome views from the Committee on how it would like air quality protection to be considered as part of the new environmental governance body.

Group 12: Soundscapes

This group included six amendments. Three were agreed - one Government amendment (amendment 10) and amendments 55 and 56 tabled by Janet Finch-Saunders MS.

Government amendment 10 adds Public Services Boards and the Future Generations Commissioner for Wales to the list of bodies the Welsh Ministers are required to consult when preparing the national soundscapes strategy.

Amendment 55 is a technical amendment, while amendment 56 changes the provision requiring the national soundscapes strategy to include policies for “reducing levels” of noise pollution” to “effectively managing” it. Moving the amendment, Janet Finch-Saunders MS argued the original wording could unintentionally prevent any development work taking place. The Committee **heard evidence to this effect** during Stage 1.

The amendments not agreed would have inserted a definition of soundscapes into the Bill and required the Welsh Ministers to publish the national soundscapes strategy within two years of the Bill gaining Royal Assent. The Deputy Minister put it to the Committee that the definition used was not the standard international one and that the strategy would be published before Royal Assent meaning it would require a review almost immediately if the relevant amendment was agreed.

Group 13: Regulations

This group included one Government amendment (amendment 11) which was agreed.

The amendment was tabled in response to a **recommendation from the LJC Committee** that the inclusion of “retained direct EU legislation” in the Bill’s definition of primary legislation could cause confusion. The amendment removes the reference to retained EU legislation as per the recommendation.

3. Next steps

Following the completion of Stage 2 proceedings on 11 October, the Bill began Stage 3 of the legislative process on 12 October 2023. During this stage, Members of the Senedd (including the Deputy Minister) can table amendments to the Bill as amended at Stage 2. Amendments tabled can be found on the **Bill page on the Committee’s website**.

Stage 3 proceedings will take place in Plenary on 21 November.