

Rural proofing and environmental sustainability white paper

14 October 2026

Legislation and
Governance Unit

We welcome the opportunity to respond to the [White Paper](#). Our response addresses two of the consultation proposals: repealing section 6(6A)(b) of the Environment (Wales) Act 2016 and creating a power to modify specified regulations made under section 2(2) of the European Communities Act 1972.

Consultation questions

20. Do you agree that section 6(6A)(b) of the Environment (Wales) Act 2016 should be repealed?

Yes, we agree that repealing section 6(6A)(b) of the Environment (Wales) Act 2016 would simplify the legislative requirements on consultation on section 6 biodiversity plans.

We note that section 6(6A)(b) was inserted through a non-government amendment during the passage of the Environment (Principles, Governance and Biodiversity Targets) (Wales) Act 2026.

The Welsh Government has confirmed that applying the sustainable management of natural resources principles amounts to, and is treated as, imposing a duty to consult. However, those principles do not themselves create a direct, explicit consultation requirement.

For this reason, we recommend that the welcome commitment in paragraph 231 of the White Paper to consult with the public and the Office of Environmental Governance Wales is stated clearly in the guidance and explanatory materials that will govern section 6 biodiversity plans.

42. Should the Welsh Ministers be given the proposed regulation making power to modify specified regulations related to the environment, to be listed in the Bill, that were made under section 2(2) European Communities Act 1972?

No. We strongly object to this proposed broad regulation making power.

The central question is not whether environmental law may need to change, but whether there is sufficient justification for changes requiring significant policy choices to be made through a broad delegated power rather than through existing technical powers or primary legislation. In our view, this has not been demonstrated.

(i) The case for the broad power has not been made

Paragraph 235 offers three justifications for the proposed broad power: maintaining high environmental standards, responding to new evidence and policy priorities, and enabling timely changes. None establishes the need for a broad, permanent power to revoke, replace or amend significant environmental legislation. We address each justification in turn.

- **Maintaining high environmental standards.** We welcome the aim of maintaining high environmental standards, but the White Paper does not explain how the proposed broad power would achieve it. For example, page 70 of the [Regulatory Impact Assessment](#) identifies the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 and the Conservation of Habitats and Species Regulations 2017 as key regulations that cannot currently be amended as desired. However, it does not identify the amendments required, explain why they are urgent or specify which environmental standards would be affected if they were not made. These examples therefore do not establish a need for the proposed broad power.
- **Responding to new evidence and policy priorities.** As the White Paper recognises, [section 15 of the Retained EU Law \(Revocation and Reform\) \(REUL\) Act 2023](#) can be used to update retained EU law to reflect changes in technology and developments in scientific understanding. Paragraph 57 of the Act's [explanatory notes](#) makes clear that the power is intended to enable technical updates rather than significant policy change. It can be exercised on multiple occasions, allowing legislation to be amended as scientific and technological developments occur over time. This power offers useful flexibility and has been dismissed too readily in the White Paper.
- **Acting in a timely way where changes are needed.** A desire to act promptly, while welcome, does not in itself justify the use of a broad delegated power for significant policy changes. Where a change involves important policy choices, primary legislation remains the appropriate route. Maintaining that distinction would help ensure that technical updates can be made efficiently while significant policy decisions continue to receive full Senedd scrutiny. The Welsh Government can choose to prioritise environmental reforms within its primary legislative programme.

Paragraph 250 of the White Paper explains that the broad power being sought goes significantly beyond the scope of previous section 2(2) powers. No meaningful justification is provided for this.

There is strong evidence from the UK's parliaments of the risks of framework bills and broad, unconstrained powers; that evidence is relevant to consideration of the power proposed in the White Paper. The House of Lords Constitution Committee [report](#) on "The Legislative Process: The Delegation of Powers" stated that governments "cannot rely on generalised assertions of the need for flexibility or futureproofing" as justification for framework legislation (paragraph 58). The White Paper relies on similarly general claims about flexibility, responsiveness and timing without explaining why proposed policy changes should not be made via primary legislation.

The House of Lords Delegated Powers and Regulatory Reform Committee [report](#) on "Democracy Denied? The urgent need to rebalance power between Parliament and the Executive" reached similar conclusions:

"The appropriate threshold between primary and secondary legislation should not be dependent on the exigencies of timing but should be founded on the overarching principle that the principal aspects of policy should be on the face of a bill and only its detailed implementation left to delegated legislation." (Paragraph 65)

"Skeleton legislation signifies an exceptional shift in power from Parliament to the executive and entails the Government, in effect, asking Parliament to pass primary legislation which is so insubstantial that it leaves the real operation of the legislation to be decided by ministers. As such, it will rarely be justifiable." (Paragraph 66)

(ii) The broad scope of the power would introduce significant risks for environmental protection

The laws listed in Annex 2 contain some of the most important environmental protections in Wales. This includes laws that protect irreplaceable habitats, endangered species and the marine environment.

Granting Welsh Ministers, both now and in the future, a broad power to revoke, amend or replace these laws would create a significant and unnecessary risk because the power is not confined to maintaining or improving environmental protections. The current Welsh Government may have no intention of weakening environmental protections, but the power would also be available to future administrations that may take a different approach. This risk is not merely theoretical given calls from some political parties for environmental regulation to be reduced.

As proposed, the power could allow long-established environmental safeguards to be replaced with regulations pursuing different objectives and producing materially different outcomes, even though the White Paper states that this is not its intended purpose.

The previous [Welsh Government](#) recognised a similar risk when opposing the UK Government's REUL Bill, arguing that it "...risks the reduction of standards in important areas including employment, health and the environment." This contained broad powers to amend, revoke or replace retained EU law.

(iii) Alternatives exist to achieve Welsh Ministers' aims

The case for such a broad power is further weakened by the fact that alternative mechanisms exist to achieve the Welsh Government's stated objectives.

As noted above, section 15 of the REUL Act 2023 already enables retained EU law to be updated to reflect technological developments and advances in scientific understanding. Where technical changes are required, this existing power can be, and has been, used to keep legislation up to date.

Where more substantive policy reform is needed, primary legislation remains available. The First Minister's [statement](#) of 14 July 2026 setting out the first phase of the Welsh Government's legislative programme includes water sector reform legislation. This would provide a suitable vehicle for amendments to the water regulations listed in Annex 2, including measures to introduce the stronger and enforceable targets to reduce pollution in rivers and seas which were committed to in the [Plaid Cymru manifesto](#).

Additionally, the UK Government is committed to bring forward water reform primary legislation in the current Westminster parliamentary session. This offers a further potential vehicle for reforming water quality laws as the Welsh Government could agree to that bill making provision relating to Wales, a potentially sensible approach given the transboundary nature of water pollution.

If the Welsh Government's objective is to keep its statute book aligned with EU developments, especially those which seek to raise environmental standards, then it could consider seeking a 'keeping pace' power akin to that which the Scottish Government is afforded in [section 1](#) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. This does not appear to have been considered as an option on pages 71 and 72 of the Regulatory Impact Assessment.

Given that both technical and substantive alternative legislative routes already exist, it is unclear why Welsh Ministers require an additional power of such breadth and significance.

The Welsh Government has not demonstrated that its policy objectives cannot be achieved through the mechanisms that are already available. This broad power therefore appears to be sought as a convenience rather than a necessity.

(iv) Reviews of environmental laws have consistently found poor implementation, not drafting

The White Paper does not assess whether existing environmental laws are effective. This omission is important because previous reviews of the Habitats Regulations, for example, have found the regulations fit for purpose and identified implementation, rather than the legislation itself, as the area needing improvement.

For example, when the European Commission [assessed](#) the EU Nature Directives, it found that they remained highly relevant and fit for purpose, but that a substantial improvement in implementation was needed to achieve their objectives. Similar conclusions were reached by Defra in its [implementation review](#) of the directives.

(v) Impact on legal certainty

Environmental regulation provides an important framework for business investment, innovation and long-term planning. Businesses operating in regulated sectors often make decisions based on an established and predictable legal framework, including environmental standards and compliance requirements.

The proposed power would create significant uncertainty by allowing a large number of environmental laws to be amended, revoked or replaced at any time and on an undefined timetable. Businesses would be left unable to predict which regulatory requirements may change, when those changes may occur, or the standards that may ultimately apply.

This uncertainty could undermine investment confidence and divert resources away from productive activity towards monitoring and preparing for potential regulatory change. In turn, this could have a chilling effect on investment, innovation and long-term business planning in Wales.

Greater legal certainty would be provided by pursuing specific reforms through clearly defined legislative proposals, allowing businesses and other stakeholders to understand, inform and prepare for any changes.

43. Do you agree that the proposed power will help to protect and improve the environment and help to respond to the climate and nature emergencies and manage our natural resources sustainably? Do you have any suggestions how the power could be improved to achieve these outcomes?

No. No evidence has been provided on how this broad power would be used to help to protect and improve the environment.

Paragraph 258 states that Welsh Ministers would be placed under a duty to conduct a consultation before making regulations under the new power, but this provides no certainty that the power would be used with positive environmental intent.

44. Do you think any regulations should be added to or removed from the indicative list at Annex 2?

We do not agree that the indicative list in Annex 2 is justified. The Welsh Government has published neither evidence explaining why each law should be included nor an assessment of the laws' effectiveness. Without that analysis, there is no robust basis for determining which regulations, if any, should fall within the proposed power. The list appears to have been prepared on the basis that the provisions are currently contained in secondary legislation, rather than through any merits-based assessment.

It is not clear, for example, if the Welsh Government has assessed whether any of the regulations in Annex 2 would have the kind of legal and policy significance that would have justified the use of an Act of Parliament had the UK not been an EU member state. Given the significance of the protections that several of these regulations contain, for example in relation to the protection of irreplaceable habitats, endangered species and the marine environment, it is reasonable to conclude that at least some of these regulations would likely have been brought forward via primary legislation.

45. Do you agree with the proposed procedure, the Senedd approval procedure, for making regulations under the proposed power?

We do not agree that the case for the broad power has been made. While the Senedd approval procedure offers a higher level of scrutiny than the Senedd annulment procedure, it is not an appropriate procedure for scrutinising changes which could have significant environmental impact. As stated above, changes to environmental law that would be of high public interest should be made through primary legislation.

46. Should the Welsh Ministers be given a power by regulations to amend the list of section 2(2) regulations to add or remove regulations on the list? If so, do you agree that power should be subject to the Senedd approval procedure?

No. We object very strongly to the proposed power to amend the scope of the broad power. This would mean that any retained EU environmental law could be brought within scope of the broad power and therefore subject to potential revocation, amendment or replacement. Not only would this place many environmental protections at risk, it would also create significant legal uncertainty.

Were the broad power to proceed, it should not be possible for any retained EU environmental law to be included within its scope, regardless of its significance.

While the Senedd approval procedure offers a higher level of scrutiny than the Senedd annulment procedure, it is not an appropriate procedure for scrutinising changes which could have significant environmental impact, and which should be reserved for primary legislation.

47. Do you think the proposed broad scope of the regulation making power to enable the Welsh Ministers to modify specified regulations to implement their policy is appropriate?

No. The power is similar to the powers of the REUL Act 2023, which were heavily criticised by civil society, trade unions, consumer groups and the devolved governments.

We are surprised that the Welsh Government's rationale for seeking such a broad power includes the expiry of most of the powers of the REUL Act 2023. The previous Welsh Government strongly opposed that Act, including because of its risks to the integrity of the statute book, and committed to only use the Act's powers where there would be clear benefits to Wales.

During its [scrutiny](#) of the REUL Act powers, the House of Lords Delegated Powers and Regulatory Reform Committee drew out an important characterisation of the section 2(2) power which both the REUL Act powers and the Welsh Government's proposals lack:

"The Memorandum argues that, because much REUL originally came into our legal system through secondary legislation made under section 2(2) of the European Communities Act 1972, it is appropriate that changes can be achieved through secondary legislation. Requiring that these policy areas should now be subject to primary legislation when they were not created using primary legislation would, the Government argue, be "a marked reduction in the UK's legislative dynamism" (Memorandum, page 27).

21. **But the section 2(2) power was subject to a critical constraint. Ministers were under an obligation to implement EU law. Many EU-derived laws were as important as Acts of Parliament and, had we not been in the EU, would have been for Acts of Parliament rather than regulations. The fact that the existing provisions are contained in subordinate legislation is not in itself a good reason for replacement provisions to be contained in subordinate legislation.** Under this Bill, Ministers have power to make laws because they think it is “appropriate” to do so. The proposal to confer regulation-making powers needs to be justified on its own merits, particularly where Ministers can amend laws (not because of legal obligation, as when the UK was a member of the EU) but because Ministers merely regard it as appropriate.” (bold emphasis added)

We recognise the need to keep environmental laws under review to ensure they are effective, purposeful and deliver intended outcomes. But this must be done through a considered process based on scientific evidence, public consultation and dialogue, and careful consideration of potential impacts and unintended consequences. It should not be pursued through a ‘one-size-fits-all’ power which could be used to make changes that would have a substantial impact on the level of environmental protection in Wales.

The Welsh Government should therefore not include this broad power in the bill. Instead, it should issue a call for evidence on specific environmental reform proposals where these can be justified as urgent and necessary and pursue these through primary legislation, or the use of section 15 of the REUL Act for technical changes.

For more information, contact:
Ruth Chambers, senior fellow
rchambers@green-alliance.org.uk