

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5046 GIBRALTAR Thursday 20th April 2023

B. 08/23

ENVIRONMENTAL GOVERNANCE ACT 2023

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THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

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BILL

FOR

AN ACT to make provision about targets, plans and policies for improving the natural environment; to establish requirements for statements and reports about environmental protection; to impose duties on public bodies for improving the environment and enhancing biodiversity and for connected purposes.

ENACTED by the Legislature of Gibraltar.

PART I INTRODUCTORY

Short title.

1. This Act may be cited as the Environmental Governance Act 2023.

Commencement.

2. This Act and comes into operation on the day of publication.

Interpretation.

3. In this Act—

“current environmental improvement plan” has the meaning given by section 10(6);

“environmental improvement plan” has the meaning given by section 10(2);

“environmental principles” has the meaning given by section 19;

“environmental protection” means—

- (a) protection of the natural environment from the effects of human activity;

- (b) protection of people from the effects of human activity on the natural environment;
- (c) maintenance, restoration or enhancement of the natural environment;
- (d) monitoring, assessing, considering, advising or reporting on anything in paragraphs (a) to (c).

“environmental law” has the meaning given by section 22;

“first environmental improvement plan” has the meaning given by section 10(6);

“Government Minister” means the holder of a ministerial office in the Government;

“improving the natural environment”, in relation to an environmental improvement plan, is to be read in accordance with section 10(5);

“international environmental protection legislation” has the meaning given in section 23(2);

“making” policy includes developing, adopting or revising policy;

“met”, in relation to a target set under section 4 or 5, has the meaning given by section 6(6);

“Minister” means the minister with responsibility for the Environment;

“National conservation site” means—

- (a) the Upper Rock Nature Reserve;
- (b) a special protected area within the meaning of section 17DA of the Nature Protection Act 1991;
- (c) a special area of conservation under Part IIA of the Nature Protection Act 1991 designated under section 116 of the Marine and Coastal Access Act 2009;
- (d) a European site or European Marine Site, within the meaning of section 17E of the Nature Protection Act 1991;

“natural environment” means—

- (a) plants, wild animals and other living organisms,
- (b) their habitats,
- (c) land (except buildings or other structures), air and water,

and the natural systems, cycles and processes through which they interact;

“policy” includes proposals for legislation, but does not include an administrative decision taken in relation to a particular person or case (for example, a decision on an application for planning permission, funding or a licence, or a decision about regulatory enforcement);

“policy statement on environmental principles” has the meaning given by section 19(2);

“prescribed authority” means an authority exercising functions of a public nature which is specified for the purposes of any section of this Act by regulations made by the Minister;

“public authority” means—

- (a) government departments;
- (b) any other body or other person, that carries out functions of public administration;
- (c) any other body or other person, that is under the control of a person falling within paragraphs (a) or (b) and—
 - (i) has public responsibilities,
 - (ii) exercises functions of a public nature, or
 - (iii) provides public services, or
- (d) a person or body declared by the Minister by publishing a notice in the Gazette for the purposes of any section of this Act to be a public authority;

“the species abundance target” means that target set under section 5(1);

“the Nature Conservancy Council” means the scientific authority established under the Nature Protection (Nature Conservancy Council) Regulations 2013;

“specified date” and “specified standard”, in relation to a target set under section 4 or 5, have the meaning given by section 4(8).

PART II IMPROVING THE NATURAL ENVIRONMENT

Environmental targets

Environmental targets.

4.(1) The Minister may by regulations set long-term targets in respect of any matter which relates to—

- (a) the natural environment, or

- (b) people’s enjoyment of the natural environment.
- (2) The Minister must exercise the power in subsection (1) so as to set a long-term target in respect of at least one matter within each priority area.
- (3) The priority areas are—
 - (a) air quality;
 - (b) water;
 - (c) biodiversity;
 - (d) resource efficiency and waste reduction.
- (4) A target set under this section must specify—
 - (a) a standard to be achieved, which must be capable of being objectively measured, and
 - (b) a date by which it is to be achieved.
- (5) Regulations under this section may make provision about how the matter in respect of which a target is set is to be measured.
- (6) A target is a “long-term” target if the specified date is no less than 15 years after the date on which the target is initially set.
- (7) A target under this section is initially set when the regulations setting it come into force.
- (8) In this Part the “specified standard” and “specified date”, in relation to a target under this section, mean the standard and date (respectively) specified under subsection (4).

Environmental targets: species abundance.

- 5.(1) The Minister must by regulations set a target (“the species abundance target”) in respect of a matter relating to the abundance of species.
- (2) The specified date for the species abundance target must be 31 December 2030.
- (3) For the avoidance of doubt, the species abundance target is not a long-term target and the duty in subsection (1) is in addition to (and does not discharge) the duty in section 4(2) to set a long-term target in relation to biodiversity.
- (4) Before making regulations under subsection (1) which set or amend a target the Minister must be satisfied that meeting the target, or the amended target, would further the objective of halting a decline in the abundance of species.

(5) Section 4(4) to (8) (inclusive) apply to the species abundance target and to regulations made under this section as it applies to targets set under section 4 and to regulations under that section.

Environmental targets: process.

6.(1) Before making regulations under section 4 or 5 the Minister must seek advice from such persons as the Minister considers to be independent and to have relevant expertise.

(2) Before making regulations under section 4 or 5 which set or amend a target the Minister must be satisfied that the target, or amended target, can be met.

(3) The Minister may make regulations under section 4 or 5 which revoke or lower a target (the “existing target”) only if satisfied that—

- (a) meeting the existing target would have no significant benefit compared with not meeting it or with 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.

(4) Before making regulations under section 4 or 5 which revoke or lower a target the Minister must lay before Parliament, and publish, a statement explaining why the Minister is satisfied as mentioned in subsection (3).

(5) Regulations lower a target if, to any extent, they—

- (a) replace the specified standard with a lower standard, or
- (b) replace the specified date with a later date.

(6) For the purposes of this Part a target is met if the specified standard is achieved by the specified date.

(7) The Minister must by regulations set—

- (a) each of the targets required by section 4(2), and
- (b) the species abundance target

on or before 31 October 2024.

Environmental targets: effect.

7. It is the duty of the Minister to ensure that—
- (a) targets set under section 4 are met, and
 - (b) the species abundance target set under section 5 is met.

Environmental targets: reporting duties.

8.(1) Regulations under section 4 or 5 must specify a reporting date for any target set under that section.

(2) On or before the reporting date the Minister must lay before Parliament, and publish, a statement containing the required information about the target.

(3) The required information about a target is (as appropriate) –

- (a) that the target has been met,
- (b) that the target has not been met, or
- (c) that the Minister is not yet able to determine whether the target has been met, the reasons for that and the steps the Minister intends to take in order to determine whether the target has been met.

(4) Where the Minister makes a statement that the target has not been met the Minister must, before the end of the 12 month period beginning with the date on which the statement is laid, lay before Parliament, and publish, a report.

(5) The report must—

- (a) explain why the target has not been met, and
- (b) set out the steps the Minister has taken, or intends to take, to ensure the specified standard is achieved as soon as reasonably practicable.

(6) Where the Minister makes a statement that the Minister is not yet able to determine whether the target has been met the Minister must, before the end of the 6 month period beginning with the date on which the statement is laid, lay before Parliament, and publish, a further statement containing the required information.

(7) Subsections (3) to (6) apply to further statements under subsection (6) as they apply to a statement under subsection (2).

Environmental targets: review.

9.(1) The Minister must review targets set under section 4 and 5 in accordance with this section.

(2) The purpose of the review is to consider whether the significant improvement test is met.

(3) The significant improvement test is met if meeting—

- (a) the targets set under sections 4 and 5, and
- (b) any other environmental targets which meet the conditions in subsection (8) and which the Minister considers it appropriate to take into account,

would significantly improve the natural environment in Gibraltar.

(4) Having carried out the review the Minister must lay before Parliament, and publish, a report stating—

- (a) whether the Minister considers that the significant improvement test is met, and
- (b) if the Minister considers that the test is not met, the steps the Minister intends to take in relation to the powers in section 4 and 5 to ensure that it is met.

(5) The first review must be completed by 31 October 2025.

(6) Subsequent reviews must be completed before the end of the 5 year period beginning with the day on which the previous review was completed.

(7) A review is completed when the Minister has laid and published the report.

(8) The conditions mentioned in subsection (3)(b) are that—

- (a) the target relates to an aspect of the natural environment in Gibraltar or an area which includes Gibraltar,
- (b) it specifies a standard to be achieved which is capable of being objectively measured,
- (c) it specifies a date by which the standard is to be achieved, and
- (d) it is contained in Gibraltar legislation.

Environmental improvement plans

Environmental improvement plans.

10.(1) The Minister must prepare an environmental improvement plan.

(2) An “environmental improvement plan” is a plan for significantly improving the natural environment in the period to which the plan relates.

(3) That period must not be shorter than 15 years.

(4) An environmental improvement plan must set out the steps the Government intends to take to improve the natural environment in the period to which the plan relates.

(5) It may also set out steps the Government intends to take to improve people’s enjoyment of the natural environment in that period (and if it does so references in this Part to improving the natural environment, in relation to that plan, include improving people’s enjoyment of it).

(6) References in this Part—

(a) to the first environmental improvement plan, are to that document;

(b) to the current environmental improvement plan, are to the environmental improvement plan for the time being in effect.

Annual reports on environmental improvement plans.

11.(1) The Minister must prepare annual reports on the implementation of the current environmental improvement plan.

(2) An annual report must—

(a) describe what has been done, in the period to which the report relates, to implement the environmental improvement plan, and

(b) consider, having regard to any data obtained under section 18, whether the natural environment has, or particular aspects of it have, improved during that period.

(3) In considering the matters in subsection (2)(b) an annual report must consider the progress that has been made towards achieving—

(a) any targets, or any relevant targets, set under sections 4 and 5, and

(b) any interim targets, or any relevant interim targets, set under sections 13 and 16.

(4) The first annual report on the first environmental improvement plan may relate to any 12 month period that includes the day on which this section comes into force.

(5) The first annual report on a subsequent environmental improvement plan must relate to the first 12 months of the period to which the plan relates.

(6) Subsequent annual reports on an environmental improvement plan must relate to the 12 month period immediately following the 12 month period to which the previous annual report relates.

(7) An annual report must be laid before Parliament before the end of the 4 month period beginning immediately after the last day of the period to which the report relates.

(8) The Minister must publish annual reports laid before Parliament under this section.

Reviewing and revising environmental improvement plans.

12.(1) The Minister must—

(a) review the current environmental improvement plan in accordance with this section, section 13 and section 14, and

(b) if the Minister is required to revise the plan under section 13, or considers it appropriate to revise the plan as a result of the review, revise the plan.

(2) The period to which a revised plan relates must end at the same time as the period to which the current plan relates.

(3) The first review of the first environmental improvement plan must be completed by 31 October 2025.

(4) The first review of a subsequent environmental improvement plan must be completed before the end of the 5 year period beginning with the day on which it replaces the previous plan (see section 15(4)).

(5) Subsequent reviews of an environmental improvement plan must be completed before the end of the 5 year period beginning with the day on which the previous review was completed.

(6) If as a result of a review the Minister revises the environmental improvement plan, the Minister must lay before Parliament—

(a) the revised environmental improvement plan, and

(b) a statement explaining the revisions and the reasons for them.

(7) If as a result of a review the Minister does not revise the environmental improvement plan, the Minister must lay before Parliament a statement explaining that and the reasons for it.

(8) The Minister must publish the documents laid under subsection (6) or (7).

(9) A review is completed when the Minister has laid and published the documents mentioned in subsection (6) or (7).

(10) References in this Act to an environmental improvement plan include a revised environmental improvement plan.

Reviewing and revising plans: interim targets.

13.(1) On the first review of the first environmental improvement plan, the Minister must revise the plan so as to—

- (a) set at least one interim target in respect of each relevant matter, and
- (b) secure that there is at all times, until the end of the 5 year period beginning with the relevant date, an interim target set by the plan in respect of each relevant matter.

(2) On any other review of an environmental improvement plan, the Minister must make any revisions to the plan which are necessary in order to—

- (a) set at least one interim target in respect of any matter that has become a relevant matter since the previous review, and
- (b) secure that there is at all times, until the end of the 5 year period beginning with the relevant date, an interim target set by the plan in respect of each relevant matter.

(3) A “relevant matter” means any matter in respect of which there is a target under section 4 or 5.

(4) Subsection (2)(b) does not apply in respect of a matter if the specified date for the target under section 1 or 2 in respect of that matter is before the end of the 5 year period beginning with the relevant date.

(5) On a review of an environmental improvement plan, the Minister may revise or replace any interim targets set by the plan in respect of a relevant matter (subject to subsection (2)(b), where it applies in respect of the matter).

(6) An interim target in respect of a matter must specify—

- (a) a standard to be achieved, which must be capable of being objectively measured, and
- (b) a date by which it is to be achieved.

(7) The date must be no later than the end of the 5 year period beginning with—

- (a) for the first interim target in respect of a matter, the relevant date;

- (b) for subsequent interim targets in respect of a matter, the later of the relevant date and the date specified for the previous interim target.

(8) Before setting or revising an interim target in respect of a matter the Minister must be satisfied that meeting the target, or the revised target, would make an appropriate contribution towards meeting the target under section 4 or 5 in respect of that matter.

(9) The “relevant date” is the date on which the review is completed.

Reviewing and revising plans: other requirements.

14.(1) In reviewing an environmental improvement plan under section 12, the Minister must consider—

- (a) what has been done to implement the plan in the period since it was published or (if it has been reviewed before) last reviewed,
- (b) whether, having regard to data obtained under section 18, the natural environment has, or particular aspects of it have, improved during that period, and
- (c) whether the Government should take further or different steps to improve the natural environment (compared to those set out in the plan) in the remainder of the period to which the plan relates.

(2) In considering the matters in subsection (1)(b) the Minister must consider the progress that has been made towards meeting—

- (a) any targets, or any relevant targets, set under sections 4 and 5, and
- (b) any interim targets, or any relevant interim targets, set under sections 13 and 16.

(3) In considering the matters in subsection (1)(c) the Minister must consider whether the Government should take further or different steps towards meeting those targets (compared to those set out in the plan).

Renewing environmental improvement plans.

15.(1) Before the end of the period to which an environmental improvement plan (the “old plan”) relates, the Minister must prepare a new environmental improvement plan (the “new plan”) for a new period in accordance with this section, section 16 and section 17.

(2) The new period must begin no later than immediately after the end of the period to which the old plan relates.

(3) At or before the end of the period to which the old plan relates the Minister must lay before Parliament, and publish, the new plan.

- (4) The new plan replaces the old plan when—
- (a) it has been laid and published, and
 - (b) the period to which it relates has begun.

Renewing plans: interim targets.

16.(1) A new plan prepared by the Minister under section 15 must—

- (a) set at least one interim target in respect of each relevant matter, and
- (b) secure that there is at all times, until the end of the 5 year period beginning with the relevant date, an interim target set by the plan in respect of each relevant matter.

(2) A “relevant matter” means any matter in respect of which there is a target under section 4 or 5.

(3) Subsection (1) does not apply in respect of a matter if the specified date for the target under section 4 or 5 in respect of that matter is before the end of the 5 year period beginning with the relevant date.

(4) An interim target in respect of a matter must specify—

- (a) a standard to be achieved, which must be capable of being objectively measured, and
- (b) a date by which it is to be achieved.

(5) The date must be no later than the end of the 5 year period beginning with—

- (a) for the first interim target set by the new plan in respect of a matter, the relevant date;
- (b) for subsequent interim targets set by the new plan in respect of a matter, the date specified for the previous interim target.

(6) Before setting an interim target in respect of a matter, the Minister must be satisfied that meeting it would make an appropriate contribution towards meeting the target under section 4 or 5 in respect of that matter.

(7) The “relevant date” is the first day of the period to which the new plan relates.

(8) In this section references to the “new plan” are to be read in accordance with section 15.

Renewing plans: other requirements.

17.(1) In preparing a new plan under section 15 the Minister must consider—

- (a) what has been done to implement the old plan,
- (b) whether, having regard to data obtained under section 18 the natural environment has improved since the beginning of the period to which the old plan relates, and
- (c) whether the Government should take further or different steps compared to those set out in the old plan) to improve the natural environment in the period to which the new environmental improvement plan relates.

(2) In considering the matters in subsection (1)(b) the Minister must consider the progress that has been made towards meeting—

- (a) any targets set under sections 4 and 5, and
- (b) any interim targets set under sections 13 and 16.

(3) In considering the matters in subsection (1)(c) the Minister must consider whether the Government should take further or different steps (compared to those set out in the old plan) towards meeting any targets set under sections 4 and 5.

(4) In this section references to the “new plan” and the “old plan” are to be read in accordance with section 15.

Environmental monitoring

Environmental monitoring.

18.(1) The Minister must make arrangements for obtaining such data about the natural environment as the Minister considers appropriate for the purpose of monitoring—

- (a) whether the natural environment is, or particular aspects of it are, improving in accordance with the current environmental improvement plan,
- (b) the progress being made towards meeting any targets set under sections 4 and 5, and
- (c) the progress being made towards meeting any interim targets set under section 13 and 16.

(2) The Minister must lay before Parliament, and publish, a statement setting out the kinds of data to be obtained under subsection (1).

(3) The first statement must be laid before the end of the 4 month period beginning with the day on which this section comes into force.

(4) The Minister may revise the statement at any time (and subsection (2) applies to any revised statement).

(5) The Minister must publish any data obtained under subsection (1).

Policy statement on environmental principles

Policy statement on environmental principles.

19.(1) The Minister must prepare a policy statement on environmental principles in accordance with this section and section 20.

(2) A “policy statement on environmental principles” is a statement explaining how the environmental principles should be interpreted and proportionately applied by Government Ministers when making policy.

(3) It may also explain how Government Ministers, when interpreting and applying the environmental principles, should take into account other considerations relevant to their policy.

(4) The Minister must be satisfied that the statement will, when it comes into effect, contribute to—

- (a) the improvement of environmental protection, and
- (b) sustainable development.

(5) In this Part “environmental principles” means the following principles—

- (a) the principle that environmental protection should be integrated into the making of policies,
- (b) the principle of preventative action to avert environmental damage,
- (c) the precautionary principle, so far as relating to the environment,
- (d) the principle that environmental damage should as a priority be rectified at source,
- (e) the polluter pays principle;
- (f) the non-regression principle that any recession of environmental law or existing levels of environmental protection should be prevented.

Policy statement on environmental principles: process.

20.(1) The Minister must prepare a draft of the policy statement on environmental principles.

(2) The Minister must consult such persons as the Minister considers appropriate in relation to the draft statement.

(3) The Minister must lay the draft statement before Parliament.

(4) If before the end of the 21 day period—

- (a) Parliament passes a resolution in respect of the draft statement, or
- (b) a committee of Parliament makes recommendations in respect of the draft statement,

the Minister must produce a response and lay it before Parliament.

(5) The Minister must prepare and lay before Parliament the final statement, but not before—

- (a) if subsection (4) applies, the day on which the Minister lays the response required by that subsection, or
- (b) otherwise, the end of the 21 day period.

(6) The final statement has effect when it is laid before Parliament.

(7) The Minister must publish the statement when it comes into effect.

(8) The “21 day period” is the period of 21 sitting days beginning with the first day on which Parliament sits after the day on which the draft statement is laid under subsection (3).

(9) The requirements in subsections (1) and (2) may be met by the preparation of a draft statement, and consultation, before this section comes into force.

(10) The Minister may prepare a revised policy statement on environmental principles at any time (and subsections (1) to (8) apply in relation to any revised statement).

Policy statement on environmental principles: effect.

21.(1) A Government Minister must, when making policy, have due regard to the policy statement on environmental principles currently in effect.

(2) Nothing in subsection (1) requires a Minister to do anything (or refrain from doing anything) if doing it (or refraining from doing it) –

- (a) would have no significant environmental benefit, or
- (b) would be in any other way disproportionate to the environmental benefit.

(3) Subsection (1) does not apply to policy so far as relating to—

- (a) the armed forces, defence or national security; or
- (b) taxation, spending or the allocation of resources within government; or

- (c) civil contingencies.

Environmental protection: statements and reports

Statements about Bills containing new environmental law.

22.(1) In this Act, “environmental law” means any legislative provision to the extent that it—

- (a) is mainly concerned with environmental protection, and
- (b) is not concerned with an excluded matter.

(2) Excluded matters are—

- (a) disclosure of or access to information;
- (b) the armed forces or national security;
- (c) taxation, spending or the allocation of resources within government; and
- (d) civil contingencies.

(3) The Minister may by regulations provide that a legislative provision specified in the regulations is, or is not, within the definition of “environmental law” in subsection (1) (and this Part applies accordingly).

(4) This section applies where a Government Minister in charge of a Bill in Parliament is of the view that the Bill as introduced contains provision which, if enacted, would be environmental law.

(5) The Minister must, at Second Reading of the Bill in Parliament in question, make—

- (a) a statement to the effect that in the Minister’s view the Bill contains provision which, if enacted, would be environmental law, and
- (b) a statement under subsection (6) or (7).

(6) A statement under this subsection is a statement to the effect that in the Minister’s view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.

(7) A statement under this subsection is a statement to the effect that—

- (a) the Minister is unable to make a statement under subsection (3), but
- (b) The Government nevertheless wishes Parliament to proceed with the Bill.

(8) In making a statement under this section the Minister may in particular take into account the possibility that a Bill, by making provision that is different from existing environmental law, might provide for the same or a greater level of environmental protection.

(9) For the purposes of this section—

- (a) references to environmental protection provided for by any existing environmental law includes any protection which could be provided for under powers conferred by the existing environmental law, and
- (b) in considering the effect of a Bill, any powers conferred by the Bill to provide for any environmental protection may be taken into account.

(10) A statement under this section must be in writing and be published in such manner as the Minister considers appropriate.

(11) “Existing environmental law”, in relation to a statement under this section, means environmental law existing at the time that the Bill to which the statement relates is introduced in Parliament, whether or not the environmental law is in force.

Reports on international environmental protection legislation.

23.(1) The Minister must report on developments in international environmental protection legislation which appear to the Minister to be significant.

(2) “International environmental protection legislation” means legislation of countries and territories outside Gibraltar, and international organisations, that is mainly concerned with environmental protection.

(3) The Minister must report under this section in relation to each reporting period.

(4) The reporting periods are—

- (a) the 2 year period beginning with the day on which this section comes into force, and
- (b) each subsequent 2 year period.

(5) A report under this section may consider—

- (a) particular countries, territories or international organisations, or
- (b) particular aspects of environmental protection, as the Minister considers appropriate.

(6) A report under this section must be laid before Parliament, and published, as soon as reasonably practicable after the end of the reporting period to which it relates.

**PART III
NATURE AND BIODIVERSITY**

General duty to conserve and enhance biodiversity.

24.(1) For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in Gibraltar.

(2) A public authority must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.

(3) After that consideration the authority must (unless it concludes there is no new action it can properly take)—

- (a) determine such policies and specific objectives as it considers appropriate for taking action to further the general biodiversity objective, and
- (b) take such action as it considers appropriate, in the light of those policies and objectives, to further that objective.

(4) The requirements of subsection (3)(a) may be satisfied (to any extent) by revising any existing policies and specific objectives for taking action to further the general biodiversity objective.

(5) The first consideration required by subsection (1) must be completed by the authority within the period of one year beginning with the day on which this section comes into force.

(6) Any subsequent consideration required by subsection (1) must be completed no more than five years after the completion of the authority’s previous consideration.

(7) A determination required by subsection (3)(a) must be made as soon as practicable after the completion of the consideration to which it relates.

(8) Nothing in this section prevents the authority from—

- (a) determining or revising policies and specific objectives at any time, or
- (b) taking action to further the general biodiversity objective at any time.

(9) In complying with subsection (2), a Minister of the Crown or government department must in particular have regard to—

- (a) the United Nations Environmental Programme Convention on Biological Diversity of 1992.
- (b) any relevant local nature recovery strategy, and

- (c) any relevant species conservation strategy or protected site strategy prepared by the Nature Conservancy Council.

(10) The Minister may issue guidance to a public authority as to how it is to comply with its duty under subsection (9)(b) when complying with subsections (1) and (2).

(11) If issued, guidance under subsection (10) must be—

- (a) published by the Minister in such manner as the Minister thinks fit,
- (b) kept under review, and
- (c) revised where the Minister considers it appropriate.

(12) The action which may be taken by the authority to further the general biodiversity objective includes, in particular, action taken for the purpose of—

- (a) conserving, restoring or otherwise enhancing a population of a particular species, and
- (b) conserving, restoring or otherwise enhancing a particular type of habitat.

Biodiversity lists and action.

25.(1) The Minister must publish a list of the living organisms and types of habitat which in the Minister's opinion are of principal importance for the purpose of conserving and enhancing biodiversity.

(2) Before publishing any list the Minister must consult the Nature Conservancy Council as to the living organisms or types of habitat to be included in the list.

(3) Without prejudice to section 24, the Minister must—

- (a) take such steps as appear to the Minister to be reasonably practicable to further the conservation of the living organisms and types of habitat included in any list published under this section, or
- (b) promote the taking by others of such steps.

(4) The Minister must, in consultation with the Nature Conservancy Council —

- (a) keep under review any list published under this section,
- (b) make such revisions of any such list as appear to the Minister appropriate, and
- (c) publish any list so revised as soon as is reasonably practicable after revising it.

Biodiversity reports.

26.(1) This section applies to—

a prescribed authority.

(2) A prescribed authority to which this section applies (“the authority”) must publish biodiversity reports in accordance with this section.

(3) A biodiversity report so published must contain—

- (a) a summary of the action which the authority has taken over the period covered by the report for the purpose of complying with its duties under section 24,
- (b) a summary of the authority’s plans for complying with those duties over the period of five years following the period covered by the report,
- (c) any quantitative data required to be included in the report by regulations under subsection (7)(b), and
- (d) any other information that the authority considers it appropriate to include in the report.

(4) A biodiversity report—

- (a) must specify the period covered by the report, and
- (b) must be published within the period of 12 weeks following the last day of that period.

(5) The authority’s first biodiversity report must cover a period chosen by the authority which—

- (a) is no longer than three years, and
- (b) begins with the day on which the authority first becomes subject to the duty under subsection (2).

(6) A subsequent biodiversity report made by the authority must cover a period chosen by the authority which—

- (a) is no longer than five years, and
- (b) begins with the day after the last day of the period covered by its most recent biodiversity report.

(7) The Minister may by regulations—

- (a) provide for specified public authorities, or public authorities of a specified description, to be prescribed authorities for the purposes of this section;
- (b) require biodiversity reports to include specified quantitative data relating to biodiversity in any area of land in Gibraltar in relation to which the authority exercises any functions.

(8) In this subsection “specified” means specified in the regulations.

Local nature recovery strategies.

27.(1) There are to be local nature recovery strategies for areas in Gibraltar, such areas to be determined by the Minister.

(2) A local nature recovery strategy for an area (“the strategy area”) is to be prepared and published by the Minister.

(3) A local nature recovery strategy is to be reviewed and republished from time to time by the Minister.

(4) The Minister may by regulations make provision about the procedure to be followed in the preparation and publication, and review and republication, of local nature recovery strategies.

(5) Regulations under this section may, for example, include provision—

- (a) requiring the provision of information by a public authority whose area of responsibility is, or is within, the strategy area;
- (b) for consultation, including consultation of members of the public;
- (c) for the times at or after which a local nature recovery strategy is to be reviewed and republished.

Content of local nature recovery strategies.

28.(1) A local nature recovery strategy relating to an area (“the strategy area”) is to include—

- (a) a statement of biodiversity priorities for the strategy area, and
- (b) a local habitat map for the whole strategy area or two or more local habitat maps which together cover the whole strategy area.

(2) The statement of biodiversity priorities referred to in subsection (1)(a) is to include—

- (a) a description of the strategy area and its biodiversity,

- (b) a description of the opportunities for recovering or enhancing biodiversity, in terms of habitats and species, in the strategy area,
 - (c) the priorities, in terms of habitats and species, for recovering or enhancing biodiversity (taking into account the contribution that recovering or enhancing biodiversity can also make to other environmental benefits), and
 - (d) proposals as to potential measures relating to those priorities.
- (3) A local habitat map referred to in subsection (1)(b) is a map identifying—
- (a) national conservation sites in the strategy area,
 - (b) other areas in the strategy area which in the opinion of the responsible authority—
 - (i) are, or could become, of particular importance for biodiversity, or
 - (ii) are areas where the recovery or enhancement of biodiversity could make a particular contribution to other environmental benefits.
- (4) The Minister may issue guidance as to—
- (a) information to be included in a local nature recovery strategy pursuant to the requirements in subsections (1) to (3), and
 - (b) any other matters to be included in a local nature recovery strategy.
- (5) A responsible authority must have regard to the guidance when preparing a local nature recovery strategy.
- (6) The Minister must publish the guidance.

Information to be provided by the Minister.

- 29.(1) For the purpose of assisting responsible authorities in their preparation of local nature recovery strategies, the Minister must prepare and publish a national habitat map.
- (2) The national habitat map must in particular identify—
- (a) national conservation sites, and
 - (b) other areas that in the opinion of the Minister are of particular importance for biodiversity.
- (3) The Minister may from time to time review and republish the national habitat map.
- (4) The Minister must inform a responsible authority of any area in the authority's strategy area which falls within subsection (5).

- (5) An area falls within this subsection if in the Minister’s opinion—
- (a) the area could be of greater importance for biodiversity, or is an area where the recovery or enhancement of biodiversity could make a contribution to other environmental benefits, and
 - (b) the area could contribute to the establishment of a network of areas for the recovery and enhancement of biodiversity in Gibraltar as a whole.
- (6) The Minister must provide a responsible authority with any other information—
- (a) that is held by the Minister, and
 - (b) that the Minister considers might assist the authority in preparing a local nature recovery strategy.

Conservation

Species conservation strategies.

30.(1) The Nature Conservancy Council may prepare and publish a strategy for improving the conservation status of any species of fauna or flora.

(2) A strategy under subsection (1) is called a “species conservation strategy”.

(3) A species conservation strategy must relate to an area (the “strategy area”) consisting of any part of Gibraltar.

(4) A species conservation strategy for a species may in particular—

- (a) identify areas or features in the strategy area which are of importance to the conservation of the species,
- (b) identify priorities in relation to the creation or enhancement of habitat for the purpose of improving the conservation status of the species in the strategy area,
- (c) set out how the Nature Conservancy Council proposes to exercise its functions in relation to the species across the whole of the strategy area or in any part of it for the purpose of improving the conservation status of the species in the strategy area,
- (d) include the opinion of the Nature Conservancy Council on the giving by any other public authority of consents or approvals which might affect the conservation status of the species in the strategy area, and
- (e) include the opinion of the Nature Conservancy Council on measures that it would be appropriate to take to avoid, mitigate or compensate for any adverse impact on

the conservation status of the species in the strategy area that may arise from a plan, project or other activity.

(5) The Nature Conservancy Council may, from time to time, amend a species conservation strategy.

(6) Any prescribed authority must co-operate with the Nature Conservancy Council in the preparation and implementation of a species conservation strategy so far as relevant to the authority's functions.

(7) The Minister may give guidance to prescribed authorities as to how to discharge the duty in subsection (6).

(8) The Minister must publish any guidance given under subsection (7).

(9) Any prescribed authority must in the exercise of its functions have regard to a species conservation strategy so far as relevant to its functions.

PART IV MISCELLANEOUS

Regulations.

31.(1) The Minister may by regulations make any supplementary, incidental, consequential, transitory, transitional or saving provision which the Minister considers necessary or expedient for the purposes of, or in consequence of, or for giving full effect to any provision of this Act.

(2) Regulations under this section may, in particular, prescribe any forms, fees, duties or penalties to be paid in connection with this Act.

EXPLANATORY MEMORANDUM

This Bill is comprised of two thematic halves. The first provides a legal framework for environmental governance. The second makes specific provision for improvement on biodiversity and species conservation.

Part II of the Bill, which comprises the environmental governance part of the Bill, includes provisions to allow the Minister to set long-term targets in relation to the natural environment and people's enjoyment of the natural environment via regulations, as well as to set at least one long-term target in a priority area of air quality, water, biodiversity and resource efficiency. It also requires the Minister to set and meet a target relating to the abundance of species and to periodically review all targets to assess their progress.

This Part of the Bill also requires the publication of a policy statement on environmental principles setting out how environmental principles specified under the Act are to be interpreted and applied by all Ministers during the policymaking process. The Minister must also publish a report on the impact of all new environmental primary legislation and report periodically on environmental legislation passed globally.

Part III of the Bill imposes an obligation on public authorities to conserve and enhance biodiversity, in accordance with the proper exercise of their functions and to report on action taken to comply with this obligation.

It requires the Minister to publish biodiversity lists of species and habitats and take steps to further their conservation, as well as to determine local nature recovery strategy areas, and to prepare strategies on such areas, their biodiversity and opportunities and proposals for recovering or enhancing such biodiversity.

Lastly, this Part of the Bill requires the Nature Conservancy Council to publish a strategy for improving the conservation status of flora and fauna to include measures which can be taken to avoid any adverse impacts on these species.

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