



WHAT ARE THE FORTHCOMING LEGISLATIVE ISSUES OF INTEREST TO ECOLOGISTS AND CONSERVATIONISTS IN 2021?

This is our eleventh assessment of the forthcoming legislation that we consider is likely to have consequences for ecologists or the environment. As a result of COVID-19 some aspects are a repeat of expected activities for 2020. For example, this is again being named as a super year for nature with the key global meetings delayed but likely to take place in 2021.

We consider issues ranging from a global scale, those in the European Union (EU), to those in the United Kingdom and constituent countries. In recent years we have reflected on the possible consequences of Brexit (EU Exit). Now there is a deal there is some clarity in the future although considerable uncertainty remains about the consequences.

The objective of these scans is to outline expected policy changes to encourage the stronger link of science and policy. Each of the previous legislative scans (Sutherland 2011-20) can be downloaded for free on the British Ecological Society website. We do not repeat issues described in previous years, even if still relevant.

GLOBAL



COVID-19 and global biodiversity policy

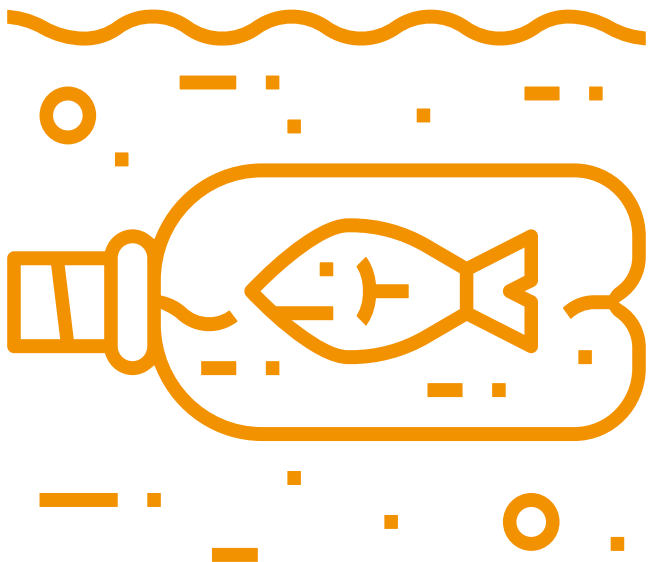
The global COVID-19 pandemic led to the postponement of several international meetings, expected to shape the global conservation agenda for the next decades. These meetings and corresponding policy decisions are now expected in 2021 and include the Glasgow Climate Change Conference, the Kunming Biodiversity Conference, the final round of negotiations on a new agreement to protect biodiversity in the high seas, the IUCN World Conservation Congress, and the adoption of regulations for seabed mining. Despite the delay of important decisions, exchange of views continued virtually, and the knowledge base for decision-making was expanded further, including through an increased focus on the interconnectedness of human, animal and ecosystem health, commonly referred to as the “One Health” approach. This increased focus also triggered discussions on how international policy instruments, such as the Convention on International Trade in Endangered Species, which currently does not have a mandate related to matters regarding zoonotic diseases, could be strengthened to avoid future pandemics, or whether a new international treaty on pandemics is needed.

Tropical timber and fisheries

In November 2021 the Council to the International Tropical Timber Organization will decide whether to extend the treaty which governs the organization, otherwise the treaty will expire in December 2021. The International Tropical Timber Organization develops internationally agreed policy guidelines and norms to encourage sustainable forest management and sustainable tropical timber industries and trade. Regarding fisheries, World Trade Organization members plan to conclude negotiations on an agreement on curbing harmful fisheries subsidies in implementation of Sustainable Development Goal 14.6. The 2020 deadline was missed in part due to varying positions on special and differential treatment for developing and least developed countries.

International Environmental Governance and plastic waste

Building on a process in 2018 and 2019 to determine the need for a Global Pact for the Environment, governments have begun negotiating a political declaration on the environment to be adopted in 2022. That year will mark the 50th anniversary of the first United Nations Conference focused on the Environment, which took place in Stockholm, Sweden, in 1972, and paved the way for the landmark Earth Summit in 1992 in Rio de Janeiro, Brazil. The declaration aims at strengthening the definition and implementation of International Environmental Law and will be agreed upon by the United Nations Environment Assembly to be convened virtually in February 2021. The United Nations Environment Assembly will also consider a list of response options to eradicate marine plastic litter and microplastics, including the option of developing a new global agreement. As of this year an amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal relating to plastic also came into effect, which each Party to the Convention is required to transpose into national law.



FEATURE

EUROPE



In 2020, the European Green Deal was stress tested with some Member States suggesting the EU should focus on the COVID-19 crisis instead. The Commission has doubled down and many legislative files, stemming from the European Green deal, will be progressed or concluded by the end of 2021. 2021 will be a huge test of whether the EU can deliver on its stated ambition and be a global leader at the UN climate and biodiversity conference of the parties this year.

Common Agriculture Policy

The reform of the Common Agricultural Policy continues and the EU institutions are engaged in trilogue negotiations to try to find a political agreement. The positions of the European Parliament and Council remain highly problematic with both institutions weakening the environmental instruments while maintaining, or even enhancing, the unbalanced and counterproductive distribution of payments. It is anticipated that the negotiations will be concluded by the summer.

Renewable Energy Directive

The European Commission plans a revision of the Renewable Energy Directive and will present a proposal by spring of 2021 to help deliver on the EU's increased climate ambition for 2030. This is to assess how far EU renewable energy rules can contribute to a higher EU climate ambition of reducing greenhouse gas emissions by at least 50% to 55% by 2030. It will also assess sustainability criteria for forestry biomass providing a key opportunity to review how it is treated as a renewable form of energy.

Land use, Land use Change and Forestry

The revision of the regulation on the inclusion of greenhouse gas emissions and removals from Land use, Land use change and Forestry, expected in spring of 2021. The revision is a recognition that, under the current 'no net debit' target for the land use sector that aims for carbon stability, it will be impossible to meet European Commission climate targets, particularly its 2050 'net zero' target.

Sustainable corporate governance and mandatory due diligence

The Commission has committed to bringing forward a legislative proposal on sustainable corporate governance, which would include human rights and environmental due diligence in 2021. A public consultation runs until 8 February 2021. Due diligence would require businesses to identify, prevent, mitigate and account for negative human rights and environmental impacts in their supply chains.

Minimising the risk of deforestation and forest degradation

A legislative file is due in spring 2021 on minimising the risk of deforestation and forest degradation associated with products placed on the EU market. The aim is to require companies to ensure that they do not bring products responsible for human rights violations, deforestation and ecosystem degradation into the EU.

Nature Restoration Law

The Commission will put forward a proposal for legally binding EU nature restoration targets in 2021 to restore degraded ecosystems, in particular those with the greatest potential to capture and store carbon. This is a major opportunity for turning the tide against biodiversity loss. The Commission has opened a public consultation that will run until the start of April, this will be followed by an impact assessment and potentially a legal proposal at the end of 2021.

EU Forest Strategy

The new EU Forest Strategy, is a non-legislative initiative, which the Commission is expected to prepare for the first quarter of 2021 with the objective to propose a coherent policy framework on European Forests.



FEATURE

UNITED KINGDOM



Green Industrial Revolution

The Prime Minister has set out a ten point plan for a UK green industrial revolution. The plan outlines the mobilisation of £12 billion of government investment to support 250,000 green jobs, primarily in the energy and transport sectors across the UK.

The government will invest up to £1 billion to support the establishment of Carbon Capture, Usage and Storage in four industrial clusters in areas of England, Scotland and Wales. The North Sea is described as an unrivalled asset for storing captured carbon under the seabed. Details of a revenue mechanism and the process for deployment will be released later in 2021.

The plan also includes proposals to protect the natural environment and tackle biodiversity loss. Of note, the government aims to start the process for designating new National Parks and Areas of Outstanding Natural Beauty in 2021, contributing to the target of protecting 30% of UK land by 2030.

Brexit

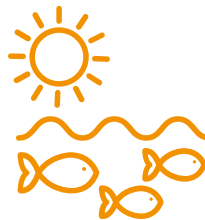
Whilst the EU–UK Trade and Cooperation agreement marked the end of the Brexit transition period on 24 December 2020, there is still uncertainty surrounding the replacement of the environmental protections that were provided under the EU.

- Although the existing body of environmental law administered by the EU has been transposed into domestic law, legal provision for the non-regression of environment and climate levels of protection has not yet been established in law, meaning that these standards are not assured.
- The UK has made commitments which show leadership at a global level, including 30% protection on land and sea by 2030 and 68% reduction in greenhouse gas emissions to 1990 levels by 2030. However, there is uncertainty surrounding how these commitments will be delivered. Other commitments will depend on the outcome of the Convention on Biological Diversity and the Climate Change convention later this year.

- The UK has not determined a complete system to enforce environmental law, civil society's ability to challenge decisions and public accountability. UK nations will have interim governance measures in place from January 2021, how effective these systems will be remains uncertain. The EU Commission will have until 2024 to deal with existing cases.
- The details of how the UK will improve the sustainability of land and marine management is still to be determined. The Fisheries Act (2020) provides the framework. The detail of Joint Fisheries Statements between the four UK countries and the policies and legislation developed by devolved governments will impact the overall sustainability of the system.
- UK replacements for (or continued involvement in) LIFE programme and the Biodiversity and Ecosystem Services in Territories (BEST) initiative that fund nature conservation is yet to be determined. What will replace EU funding under CAP has also not been fully agreed yet.
- The overall approach to trade policy has been largely unclear. The UK has stated its commitment not to lower environmental standards through trade agreements. However so far this commitment has not been included in any primary legislation such as the Trade Bill or the Agriculture Act.

The Fisheries Act 2020

The Fisheries Act 2020 received Royal Assent on 23 November 2020. The Fisheries Act provides a framework for fisheries management now that the Brexit transition period has expired. It is intended to underpin the UK's management of its fisheries as an independent coastal state, and the UK Government will be responsible for setting Total Allowable Catches.



ENGLAND



The Agriculture Act 2020

The Agriculture Act received Royal Assent on 11 November 2020. In summary, the Act enables powers to:

- Develop new farm support approaches in England, moving from the Basic Payment Scheme to be phased out over seven years, to be replaced by the principle of public money for public goods to enhance the environment;
- Intervene in agricultural markets;
- Increase transparency and fairness in the agricultural supply chains;
- Include measures on market standards;
- Make provision for the UK to meet obligations under the World Trade Organisation Agreement.

In addition, the Act requires Ministers to consider the need to encourage production of food in England in an environmentally sustainable way, to set out multi-annual plans on using financial assistance powers, and to report on food security at least once every five years.

In October 2020, the Government published The Environmental Land Management Scheme: public money for public goods (ELMS), covering details on tests and trials and a national pilot. Development of this scheme continues.

The Environment Bill 2019-21

The Environment Bill 2019-21 is still making progress through Parliament and was last amended in Committee on 27 November 2020. Substantial written evidence is currently being considered on issues such as species conservation and protected site strategies, and wildlife conservation licensing, to inform the discussion of further amendments. The Bill enables the power to set long-term legally binding environmental targets on which the Government will be required to report progress annually. The 25 Year Environment Plan Progress Report, April 2019 – March 2020 was published on 11 June 2020.

This report, well ahead of the publication of binding targets, gives a limited overview of progress to date on a series of outcome indicators, for example that 10% mandatory net gain for biodiversity from developments in England lay the foundation for the Nature Recovery Network.

A policy paper on the Environment Bill – environmental targets was published on 19 August 2020. This paper sets out the scope, policy aims, principles and criteria for bringing forward binding targets by October 2022, indicating that there needs to be at least one long-term target in each of four priority areas: air quality; water and resource efficiency; biodiversity; and, waste reduction. In addition, the Bill ensures that the UK will be the first major economy to legislate for net zero, linking the climate and biodiversity emergencies.

Office for Environmental Protection (OEP)

This new legislative scrutiny body is included in the provisions of the Environment Bill. The principal objective is to contribute to environmental protection and to the improvement of the natural environment through:

- Implementing long-term environmental governance;
- Providing scrutiny and advice on environmental law;
- Monitoring and reporting on progress against Environment Bill targets;
- Investigating alleged breaches of environmental law by public authorities;
- Taking legal action in serious cases if necessary and as a last resort.

This new body is designed in some way to replace the scrutiny of the European Court. Dame Glenys Stacey has been announced as the preferred Chair, and non-Executive Directors (Board members) are expected to be announced in May 2021 (recruitment currently underway).

Political context

All of these developments are signalling some real commitment on behalf of the Government to tackle the twin crises of biodiversity loss and climate change. At the One Planet Summit on 11 January 2021 the Prime Minister, Boris Johnson announced the UK will commit £3.6bn, out of the existing commitment of £11.6bn for international climate finance, for nature and to deliver transformational change in protecting biodiversity-rich land and ocean.

SCOTLAND



Details outlined in this section are subject to the outcome of elections to the Scottish Parliament, expected in May 2021. Much activity in Scotland will be driven by the global events for the Convention on Biological Diversity (COP15), through the Edinburgh Declaration, and UNFCCC COP26 (1–12 Nov, Glasgow) for which the Scottish Government’s objectives are: global action; just transition; and an open and inclusive process, with a strong them on nature-based solutions.

Just Transition Commission

In July 2020 the Just Transition Commission advised Scottish Government on the impacts of COVID-19 on a ‘green recovery’ laying the foundations for a just transition to net-zero. Their final report is due in spring 2020 and will be the first such Commission to report in the world. In addition, Scotland’s national academy, the Royal Society of Edinburgh, has established a ‘Post-COVID-19 Futures Commission’ to address both immediate challenges and longer-term policy and practice questions, including notions of resilience that draws heavily on environmental systems.

The Edinburgh Declaration

The *Edinburgh Declaration on post-2020 global biodiversity framework* (August 2020) focuses on the essential role of subnational governments, cities and local authorities in delivering international targets on biodiversity. Supported by the Secretariat and some Parties to the CBD, and currently gathering global support from signatories, it is a ‘call to arms to sustain nature and ourselves’, and commits to taking ‘strong and bold actions to bring about transformative change.’ This is likely to be prominent for Scottish and other subnational governments in framing biodiversity work post-2020.

Scottish Biodiversity Strategy post-2020: statement of intent

This Scottish Government’s statement (December 2020) sets the direction for a new biodiversity strategy to tackle the combined challenge of biodiversity loss and climate change. It steers action towards a new biodiversity strategy, to be published within a year of COP15. Endorsing the Leaders’ Pledge for Nature (UN General Assembly, September 2020), it commits to the ‘30x30’ agenda for protected areas for nature, including at least 30% of Scotland’s terrestrial area ‘protected’ by 2030 (37%

of Scotland seas are already covered by Marine protected Areas). Scottish Government will develop ambitious new proposals under the National Planning Framework 4 to deliver ‘positive effects for biodiversity’ (sometimes called ‘biodiversity net gain’) through the typical plethora of planning developments.

Climate Change Action Plan update

Updating Scotland’s 2018 *Climate Change Plan*, the 2018-2032 *Climate Change Plan* sets out the Scottish Government’s pathway to its 75% emission reduction target for 2030, integrated with green recovery from COVID-19. It continues the closer alignment of climate change and nature, with prominence given to the role of nature-based solutions including woodland creation and increasing the peatland restoration target (currently 250,000ha by 2030, itself supported by £250 million investment and expected to create around 200 jobs over 3–5 years).

2020–2021 Programme for Government

The annual Programme for Government focused on COVID-19 and the Green Recovery emphasising skills, training and jobs for a net zero transition, and health, including environmental commitments outlined above. The Biodiversity Challenge Fund, with £3m funding in 2021–22 will support a wide array of biodiversity delivery activity and green skills and job opportunities. ‘Miyawaki’ mini forests will also be trialled to both improve local urban environments and tackle the climate crisis.

Licensing grouse moors

The issue of illegal persecution of birds of prey on grouse moors triggered the formation of the review group on grouse moor management in Scotland (led by Professor Alan Werritty). The Scottish Government’s response (26 November 2020) has considerable implications in Scotland and beyond. Government proposes licensing: a) all grouse shooting businesses, to tackle raptor persecution; b) muirburn (heather burning) at any time of year and for any purpose, to protect wildlife and habitats; and c) any burning on peatland (which would be undertaken for strictly limited purposes, such as approved habitat restoration projects). Associated legislation should be laid before the Scottish Parliament in autumn 2021, subject to the outcome of May elections.

FEATURE

WALES



In 2020, the legislative landscape in Wales was dominated by the impacts of the COVID-19 pandemic and preparations for the end of the Brexit transition period. These two unprecedented challenges will continue to influence environmental policy developments into 2021. The results of Senedd (Welsh Parliament) elections in May 2021 may also influence the environmental legislative agenda in the second half of the year.

Green Recovery

Welsh Government is focused on a green recovery from the pandemic that brings nature and climate to the forefront of economic, social and political regeneration, aligning with the Wellbeing of Future Generations (Wales) Act 2015. In 2020, a “call for ideas” resulted in prioritised actions that tackle both the nature and climate emergencies and stimulate job creation, skills development and address inequality. From February 2021, the Green Recovery Delivery Partnership will lead another call for proposals, and will go on to focus on supporting the development and successful implementation of actions.

Agricultural (Wales) Bill White Paper

Building on two previous consultations around the future of land management in Wales, Welsh Government launched the Agricultural (Wales) White Paper consultation in December 2020. Underpinned by the goal of sustainable land management, the paper proposes a bill that provides a framework of high-level enabling powers for Welsh Ministers. This includes the establishment of a farm support funding scheme that is based on the principle of payment for public goods, addressing climate change, public health and environmental issues. The paper also proposes to streamline agricultural regulation by establishing a set of National Minimum Standards, and improve compliance by introducing new proportionate enforcement actions.

Environmental Governance

From 1 January 2021, an interim process for raising concerns on the functioning of environmental law has been introduced in Wales while a permanent body is developed. The First Minister has committed to bringing forward primary legislation that addresses governance gaps in environmental principles and oversight in Wales post EU-exit, however, this will not happen before the end of the Senedd term in May 2021.

Clean Air (Wales) Bill White Paper

Welsh Government set out its plans for a Clean Air (Wales) Bill in a White Paper in January 2021. The paper present proposals to improve air quality in Wales to protect human health and ecosystems from air pollutants.

The second State of Natural Resources Report (SoNaRR)

The SoNaRR report is required under the Environment (Wales) Act 2016 and assesses the extent to which the sustainable management of natural resources are being achieved, the main trends and factors that are affecting natural resources and an overall assessment of biodiversity. The second report is due for publication by March 2021.

Low Carbon Delivery Plan 2

Welsh Government’s 2nd Low Carbon Delivery Plan (2021–2026) is scheduled to be published in Autumn 2021 coinciding with COP26 and engagement with stakeholders is planned throughout the year. The plan will set out the approaches and policies Welsh Government will use to meet Wales’ 2nd Carbon Budget. Welsh Government also intends to update their climate legislation early 2021 after consideration of the Climate Change Committee’s December 2020 advice.



FEATURE

NORTHERN IRELAND



Like in every other part of the UK and Ireland, 2020 was dominated by COVID-19 and preparing for the end of the Brexit transition period. The newly formed Northern Ireland Executive has continued, however, to advance a legislative agenda focused on some of the environmental commitments made within the ‘New Decade, New Approach’ agreement, as well as a range of policy and strategy development with an environmental focus.

Brexit

Northern Ireland remains in a unique position as the only part of the UK to share a land border with the EU. As previously reported, this has resulted in the Ireland/Northern Ireland protocol, which ensures the free movement of goods and travel throughout the island of Ireland, without the need for a hard border. This has meant that 18 EU environmental directives and regulations will still apply in Northern Ireland and not in other parts of the UK. This covers directives such as Industrial Emissions and Packaging Waste and regulations such as invasive species and Trade of Wild Species. The Northern Ireland Assembly will get a vote on the continuation of the protocol in four years.

Due to the Northern Ireland Assembly not functioning during the majority of the Brexit negotiations, the UK Government sought to include Northern Ireland within Westminster legislation, namely the Agriculture Act, the Marine Act and the Environment Bill (all reported above). There are specific clauses within each piece of legislation for Northern Ireland to ensure policy and legislative cover as the UK transitioned out of the EU. The Agriculture Act and Marine Act have passed the NI Assembly via a Legislative Consent Motion, however there is widespread acknowledgement that Northern Ireland will need primary legislation specific for NI to ensure the future environmental sustainability of both agriculture and fisheries. The Environment Bill will establish the Office for Environmental Protection remit within Northern Ireland and instigate ‘Environmental Improvement Plans’.

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Climate Change Legislation

The ‘New Decade New Approach’ agreement committed to the implementation of climate change legislation. A cross section of politicians in the NI Assembly brought forward a Private Members Bill that committed Northern Ireland to net zero emission reductions by 2045. This legislation has yet to be accepted by the speaker of the house and the Environment Minister has since instigated a consultation on similar climate legislation, which seeks to contribute to the UKs road to net zero. It would be expected that the legislation will have its first reading before the end of 2021.

Private Members’ Bills

Politicians in Northern Ireland have tabled a number of Private Members’ Bills of relevance to conservation in Northern Ireland. Private Members’ Bills on issues such as fracking, single use plastics, climate change (as above), One Planet Development, Green Energy (microgeneration) and the Environment and Nature Restoration have all been submitted to the bills office for consideration and research. Each Bill will go into a period of public consultation before it gets submitted to the speaker of the house for acceptance and further debate.

Policy and Strategy Development

There are a number of significant policy and strategy development consultations taking place within the next 12 months in Northern Ireland. Consultations on Environmental Governance, clean air and Marine Protected Area fisheries management are all live at time of writing. It is also expected that consultations on the following will take place in 2021; ammonia, green growth, peatland, programme for government, biodiversity strategy, future agriculture policy framework, environment strategy, marine plan and a rebuilding the economy framework. The Northern Ireland Assembly elections are not until May 2022. ✨