



ENVIRONMENTAL LEGISLATION

What are the forthcoming legislative issues of interest to ecologists and conservationists in 2016?

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This paper covers our sixth assessment of the forthcoming legislation that we consider to have likely environmental consequences or consequences for ecologists. We again review issues of a global scale, those in the European Union, and those both in the United Kingdom and constituent countries.

We have often been told that this paper is useful for policy makers desiring a review of the issues on the horizon as well as for researchers wishing to learn either how their results may be used or how their work may be affected by changes in legislation.

2015 resulted in a Conservative majority in Westminster, the dominance of the Scottish National Party in Scotland, and a collapse of many other parties in England and Wales. A referendum on whether the UK will stay in the European Union is forthcoming.

The legislative scans of previous years (Sutherland 2011-15) are freely available on the British Ecological Society website. Issues that have been discussed before are not repeated here.

GLOBAL

OFFICIAL NEGOTIATIONS ON NEW INSTRUMENT ON AREAS BEYOND NATIONAL JURISDICTION START

Following the recommendation of the Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, the UN General Assembly in June 2015 opened the negotiations for a legally-binding instrument on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction under the UN Convention on the Law of the Sea. The General Assembly has decided to establish a preparatory committee to make substantive recommendations on the elements of the draft text. This work will commence in March 2016 and carry on into 2017. Before the end of its seventy-second session in 2018, the General Assembly will render a decision on whether and, if so when, to convene an intergovernmental conference to consider the preparatory committee's recommendations and elaborate the text of an international legally binding instrument. Critical issues to be tackled in the negotiations ahead in particular relate to benefit-sharing in marine resources and some countries also still doubt whether there is a need for a new international agreement – at least for all the issues included in the so-called “package deal” identified by the Working Group.

THE DEVELOPMENT OF A REGULATORY FRAMEWORK FOR MARINE MINERAL EXPLOITATION

In 2014 the International Seabed Authority started a stakeholder consultation process on the development of a regulatory framework for mineral exploitation (the so-called ‘exploitation code’) in the deep seabed in areas beyond national jurisdiction. The resulting documents of that process were discussed during the twenty-first annual session of the International Seabed Authority held in Kingston, Jamaica, in July 2015. The key outcome of that meeting was an agreement on a list of seven priority deliverables for the development of an exploitation code over the following 12-18 months. The priority deliverables include the development of an environmental impact assessment process and a strategy for the development of regional environmental management plans. Furthermore, it was agreed that a ‘zero draft’ of the regulations for exploitation, including standard contract terms, should be produced by an expert working group by February 2016. To ensure a continued commitment to transparency and engagement, a stakeholder consultation strategy will be drafted.

THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

The 17 Sustainable Development Goals and 169 targets included in the 2030 Agenda for Sustainable Development came into effect on 1 January 2016. The 2030 Agenda encourages Member States to develop ambitious national responses to the overall implementation of the 2030 Agenda. These can support the transition towards the achievement of the Sustainable Development Goals and build on existing planning instruments, such as national development and sustainable development strategies. Furthermore, Member States are also encouraged to conduct regular and inclusive reviews of progress at the national and sub-national levels. The UN High-level Political Forum on Sustainable Development will have a central role in overseeing a network of follow-up and review processes at the global level. It will hold its first session since the adoption of the 2030 Agenda in July 2016. To keep up the political momentum for the implementation of the 2030 Agenda, three high-level events will be convened by the President of the UN General Assembly during the 70th Regular Session of the UN General Assembly. The first one will be on sustainable development, climate change and financing, ensuring linkages with the December 2015 Paris Agreement.

HARMONIZING IMPLEMENTATION OF GLOBAL WATER CONVENTIONS

In the 2030 Agenda for Sustainable Development the range of water issues receiving international attention has considerably expanded. The agenda also includes an explicit call for transboundary water cooperation, the first in a negotiated UN text since Agenda 21.

In addition to the strengthened ambition on water cooperation, the legal basis for transboundary water cooperation also has been strengthened in the last couple of years. The UN Watercourses Convention, signed in 1997, finally entered into force in 2014, and the UN Economic Commission for Europe Water Convention opened up to all UN Member States, turning it into a legal framework for transboundary water collaboration worldwide.

The International Watercourses Convention represents the codification and progressive development of customary international water law.

It requires countries to take measures to, *inter alia*: ensure equitable and reasonable utilization of shared international watercourses, and participate in cooperation on its protection and development; refrain from causing significant harm; and protect the related ecosystems. The Water Convention makes more detailed provisions for shared water management than the International Watercourses Convention, mandating the establishment of joint bodies to manage transboundary resources, and prescribing different measures.

There have been a number of calls for the two conventions to be implemented in a coherent manner, considering that both instruments are based on the same principles. Other relevant agreements that may consider joining forces on water governance include the Ramsar Convention on Wetlands and the UN Convention to Combat Desertification.

A STRATEGIC PLAN FOR THE INTERNATIONAL ARRANGEMENT ON FORESTS

At the 11th session of the UN Forum on Forests in New York in May 2015, Member States renewed the mandate of the International Arrangement on Forests and agreed on a roadmap to promote the implementation of sustainable forest management.

The UN Forum on Forests Ministerial Declaration and the Resolution on the International Arrangement on Forests beyond 2015 are the two key negotiated outcome documents of the meeting. In both documents Member States stress the importance of strengthening Sustainable Forests Management and define the Forum's roadmap until 2030. Member States also agreed to develop a Strategic Plan for the International Arrangement on Forests for the period of 2017 to 2030. The Strategic Plan aims at guiding the work of the Forum, its Secretariat, and the Collaborative Partnership on Forests, and other components of the International Arrangement on Forests.

In order to achieve the goals, as laid out in the Declaration and Resolution, members of the Forum committed to a new series of meetings. The new calendar includes Ad-Hoc Expert Groups, Working Groups, a special session of the UN Forum on Forests and the 12th session in mid-2017.

THE POST-2015 FRAMEWORK FOR DISASTER RISK REDUCTION

The Sendai Framework for Disaster Risk Reduction 2015-2030 was adopted at the 2015 Third UN World Conference on Disaster Risk Reduction in March 2015 in Sendai City, Japan, and subsequently endorsed by the UN General Assembly. The Sendai Framework is the successor instrument to the Hyogo Framework for Action 2005-2015. It is a 15-year, voluntary, non-binding agreement, which recognizes that the State has the primary role to reduce disaster risk, but that responsibility should be shared with other stakeholders including local government, the private sector and other stakeholders. It also brings to the front the importance of working on transforming cities to become more resilient. The main difference to its predecessor is its focus on disaster risks, while the Hyogo Framework focused on disaster losses. A focus on disaster losses means minimizing the impacts of disasters, while a focus on disaster risk puts more efforts to reduce the size of disasters, which would then have an overall effect of reducing its impacts. The Sendai Framework also calls on Parliamentarians to consider revising relevant legislation in line with the Framework, in order to enable national strategies and plans on disaster risk reduction. To ensure that strategies and plans are translated to action, relevant legislation is also to be reviewed and, if relevant, updated.

ENVIRONMENTAL GOVERNANCE IN THE UN SYSTEM

After an upgrade and strengthening of the UN Environment Programme at the Rio+20 conference in 2012, the UN Environment Assembly will convene for the second time in May 2016 in Nairobi, Kenya. It will be held under the theme of "Delivering on the Environmental Dimension of the 2030 Agenda for Sustainable Development". In preparation for the meeting, the second Open-ended Meeting of the Committee of Permanent Representatives will take place from February 15 - 19 in Nairobi. A key task will be the preparation of draft resolutions/decisions. Some of the key areas for discussion potentially focus on environmental justice in light of the 2030 Agenda for Sustainable Development, the relationship of migration and environmental change and the role of national policies to deal with synergies among the multilateral environmental agreements.

BALLAST WATER MANAGEMENT CONVENTION NEARS ENTRY INTO FORCE

With three additional countries having ratified the Ballast Water Management Convention in November 2015, the Ballast Water Management Convention nears entry into force. The Convention aims to prevent the spread of invasive aquatic species through ships' ballast water by requiring ships to have procedures and standards in place to manage and control ballast water. States adopted the Convention in February 2004 and it will enter into force 12 months after ratification of 30 States, representing at least 35% of world tonnage. According to the International Maritime Organization, Morocco's ratification at the end of 2015 brought the total percentage to 32.9%.

A ROADMAP FOR A HYDROFLUOROCARBON AMENDMENT UNDER THE MONTREAL PROTOCOL

At the 27th Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer in November 2015 in Dubai, United Arab Emirates, Parties agreed to a road map for negotiating an amendment on the feasibility and ways of managing hydrofluorocarbons in 2016.

EUROPE

The European Commission under President Jean-Claude Juncker and First Vice-President Frans Timmermans continues to focus on delivering the 10 priorities of Juncker's 'Political Guidelines'. It calls on the European Parliament and Council to help deliver quick results in the most important policy areas. The Commission work programme for 2016 focuses on 23 key initiatives and 40 actions as part of its better regulation agenda to ensure that the stock of EU legislation is fit for purpose. It also signalled the withdrawal or modification of 20 pending legislative proposals that are not in line with the political priorities. In 2015 the European Commission declared that it would go "bigger and more ambitious on big things, and smaller and more modest on small things". It seems that they still perceive the environment to be a small thing. As a result more non-legislative initiatives are detailed in this section than in previous scans.

'FITNESS CHECK' OF NATURA 2000.

The Fitness Check of the Birds and Habitats Directives will conclude in 2016, with two reports anticipated from the Commission. The first is expected in April and will take the form of an analysis of the findings of the Fitness Check. The Fitness Check is intended to assess whether the Directives are 'fit for purpose' in terms of their effectiveness, efficiency, relevance, coherence and EU added value, and this first report will summarise the evidence submitted to the Fitness Check under these headings. The first report is not expected to include specific recommendations for next steps, but will instead take the form of a 'Staff Working Document', not endorsed by the College of Commissioners. The second report is expected between September and December and is likely to take the form of a Commission Communication, i.e. endorsed by the Commission as a collective. This Communication is anticipated to set out next steps in response to the findings of the Fitness Check. The European Parliament and Member State Governments in the Council of Ministers will almost certainly adopt their own responses to this document.

'FITNESS CHECK' OF ENVIRONMENTAL MONITORING AND REPORTING OBLIGATIONS

As part of its on-going Regulatory Fitness and Performance programme ('better regulation' agenda), the European Commission is undertaking a 'fitness check' of the monitoring and reporting obligations associated with EU environmental legislation to assess whether they remain 'fit for purpose'. The principal focus of this cross-cutting review is on the financial costs to businesses and other stakeholders of complying with these information obligations. A stakeholder consultation was launched in late 2015 and the results of the fitness check are expected in early 2017.

IMPROVING ENVIRONMENTAL INSPECTIONS

The European Commission has been exploring options for improving environmental inspections regimes, and improving implementation of the 2001 Recommendation on Minimum Criteria for Environmental Inspections in the Member States. A legislative proposal was developed towards the end of the last Commission, but was not tabled and did

not progress further. A new proposal is expected in 2016, but it remains unclear what form the proposal will take, and whether it will be legislative.

NO NET LOSS

In June 2014, the European Commission launched an internet consultation on an EU No Net Loss initiative. The Commission has stated that it is preparing an impact assessment to support the No Net Loss initiative taking into account the results of this consultation. It is likely that the Commission will consider its next steps on this subject in light of the findings of the Fitness Check of the Birds and Habitats Directives. No indication has been given of when the Commission would publish any proposal, or what form any No Net Loss initiative might take.

COMMON FISHERIES POLICY

Several initiatives and developments in the ongoing implementation of the revised Common Fisheries Policy (December 2013) are foreseen in 2016. Following on the introduction of the Landing Obligation for pelagic fisheries in 2015, from 1 January 2016 'unwanted catches' of demersal target species for all EU waters excluding the Mediterranean must be landed and counted against quota, although the obligation is phased such that it applies only to certain demersal species in 2016. The revised Technical Conservation Measures Framework regulation is expected in early 2016; it is anticipated to include specific objectives, targets and measures for reducing seabird bycatch. Having proposed a new Data Collection Framework Regulation in 2015, the Commission intends to propose a Multiannual Programme in spring 2016 as a delegated act. Regarding Multiannual Plans for fishing in the respective regional sea basins, we expect a regulation on the North Sea plan early in 2016 (soon after the adoption of the Baltic plan assuming it gets beyond the current impasse in the trilogue), followed later in the year by proposals for, respectively, western waters and the Northern Adriatic, and a consultation on plans for Mediterranean sea areas. In the second quarter, the Commission is expected to consult on Total Allowable Catches in EU waters for 2017, followed by a Council decision in December 2016, although Baltic Catches are agreed earlier (October).

ENDING TROPICAL DEFORESTATION

Following on a 2013 study of the deforestation impacts of European consumption and several high level policy commitments to stop deforestation made in 2015 (e.g. Sustainable Development Goal 12, Paris Agreement on climate change, and Amsterdam Declaration Towards Eliminating Deforestation from Agricultural Commodity Chains with European countries, the EU Commission will be undertaking a feasibility study in 2016 of policy options for an EU Action plan on deforestation. A coalition of environmental non-governmental organisations will be closely following the development of this study, which is expected to be completed by September 2016. Other forest policy moments in 2016 include the publication of reviews and impact assessment of recommendation of the EU Timber Regulation (which prohibits import of illegally logged timber products) and the Forest Law Enforcement Governance and Trade initiative (which seeks to strengthen forest governance in countries importing forest products into the EU). A Commission communication on the Sustainable Development Goals is also expected mid-year.

CIRCULAR ECONOMY PACKAGE

The European Commission withdrew the previous circular economy package in December 2014 in order to present a "more ambitious" strategy in late 2015. In December 2015, the Commission adopted a new Circular Economy Package to stimulate Europe's transition towards a circular economy. It consists of an EU Action Plan for the Circular Economy, a timetable setting out when the actions will be completed and the adoption of a number of legislative proposals, including proposed Directives on waste, packaging waste, landfill and electrical and electronic waste. It has been criticized by environmental non-governmental organisations for being less ambitious than the previous package. The Commission is now calling on the European Parliament and Council to prioritise adoption and implementation of its legislative proposals. The Package was presented to the European Parliament on 2 December and to the European Council on 16 December. The Netherlands have prioritised the Circular Economy Package for their Presidency of the EU and aim to get Member States' agreement of the related Council Conclusions on the Package in the first half of 2016.

INVASIVE ALIEN SPECIES

2014 saw the adoption of an EU regulation on Invasive Alien Species, this was a significant achievement and the first piece of nature legislation in 20 years, the focus in 2015 was on implementation as the new law would only apply if an accompanying list of species was adopted. At the end of 2015 the Commission proposed a list of 37 species, which was adopted by Member States in December. By addressing such a small number of species, the Commission is falling short of the political commitment and its legal responsibility to address a global environmental problem of this magnitude; the Commission has promised to review the list at the end of 2016 with the intention of broadening the list to include more species.

CLIMATE AND ENERGY

In its Energy Union Strategy, the European Commission has set out the key actions it thinks are required to secure Europe's energy supply and, amongst other things, to increase energy efficiency and de-carbonise the economy. The implementation of the 2030 energy and climate package will be a key priority for the coming year in order to ensure that the targets are met. In the second quarter of 2016 a Commission proposal is expected on how emissions from land use (cropland, grazing land and forestry) should be included within the Effort Sharing Decision for reducing emissions across the European Union, as is the Commission's Transport decarbonisation roadmap. Following the consultation in early 2016, in the second half of the year a revision of the Renewable Energy Directive is expected from the Commission, including on bioenergy policy, and a proposal on monitoring and reporting of the Energy Union 2030 targets. The 2030 target for renewable energy has already been set at 27%. It will be binding upon the EU as a whole but not on individual member states. This will be followed by the Energy Efficiency legislative package in September, which will include reviews of the Energy Efficiency Directive and Energy Performance in Buildings Directive. At the end of 2016, legislative proposals are anticipated on electricity market design, electricity security of supply, and a new Renewable Energy Directive and bioenergy sustainability policy; a strategy for meeting the 2030 15% interconnection target; and a proposal

tabled for a measure on 'streamlining reporting'.

COMMON AGRICULTURAL POLICY

The European Commission is running a consultation on the first year experience of the greening obligations attached to direct payments as part of the last reform. The Commission is primarily interested in views relating to implementation, the level playing field and production potential and ways to simplify the greening framework and reduce the administrative burden. Understanding and improving the environmental effectiveness of greening seems to be of little or no interest to the Commission. This consultation can be seen as part of Commissioner Hogan's broader 'simplification' initiative. Prospects for enhancing the environmental performance of the Common Agricultural Policy are slim, with further dilution of ambition the most likely end point of this process as Europe implementation tends toward the lowest common denominator. It's not clear how this consultation will feed into the review of Ecological Focus Areas penned in for 2017 that could see their area increase from 5% to 7%.

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

The Transatlantic Trade and Investment Partnership Agreement with the United States remains a top priority for the Commission in 2016. They are committed to negotiating a fair and balanced deal with the US, with a new approach to investment protection. During the Netherlands Presidency the European trade agenda will be dominated by the negotiations on the EU's bilateral free trade agreements, including with the US.

REVIEW OF THE MULTIANNUAL FINANCIAL FRAMEWORK 2014-2020

The mid-term review of the Multiannual Financial Framework will address how to better target funding towards EU priorities. It will also orientate the budget towards results and simplifying rules, for policies such as the Common Agricultural Policy. A Commission proposal is due out at the end of 2016. It is not clear whether sectoral policies will be covered here or in the "framework of the mid-term sectoral evaluations", which will be developed in 2017.

INTER-INSTITUTIONAL AGREEMENT

ON BETTER REGULATION

The European Commission wants to conclude the Inter-institutional agreement on Better Regulation by the end of the year. In 2016 the commission will bring forward an Inter-institutional Agreement on a mandatory transparency register for interest representatives seeking to influence policy making in the European Parliament, the Council and the Commission to enhance openness and accountability.

UNITED KINGDOM

EU REFERENDUM

In late 2015, as promised in the Conservatives' Election Manifesto, the European Referendum Act was passed by Parliament. The Act provides that a referendum must take place before the end of 2017, asking the question: "Should the United Kingdom remain a member of the European Union or leave the European Union?".

The precise date of the referendum will be determined once negotiations between the UK Government and the European Council are concluded. The negotiations seek to secure a number of reforms to the UK's settlement with the EU, focused primarily on economic governance, competitiveness, sovereignty and immigration.

A vote to leave the EU would have profound implications for environmental policy and legislation in the UK. Environmental legislation in the UK and the EU is closely entwined, with many EU Directives transposed into UK law, whilst the Common Agricultural Policy represents 40% of the EU budget. The EU also has a significant impact on the funding and organisation of scientific research in the UK, across all fields including ecology and conservation science.

In the event of a 'leave' vote, the UK could remain a member of the European Economic Area alongside Norway, Iceland and Liechtenstein, in order to maintain access to the European single market. European Economic Area members must adhere to a number of EU regulations, including most environmental directives, despite being unable to influence their development. However the Common Agricultural Policy, Common Fisheries Policy, and some

environmental legislation, including the Birds and Habitats Directives, would no longer apply (Institute of European Environmental Policy, 2013).

The potential consequences of an EU exit are manifold (see Miller, 2015). Here we focus on the possible impacts for environmental legislation and science.

ENVIRONMENTAL PROTECTION

In the event of exit from the EU, the UK could choose to lower, raise or maintain current levels of environmental protection. As EU Directives are transposed into UK law, in many cases legislative change in Parliament would be required to repeal or alter these Directives. However, the UK Government would have much more freedom to alter environmental objectives, and would be subject to less far-reaching judicial processes to enforce the implementation of environmental policy.

EU environmental protection legislation that currently applies in the UK, and could be subject to change in the event of a vote to leave includes (see Chartered Institute of Ecology and Environmental Management, 2015 for a comprehensive list):

- The Nature Directives (Birds Directive and Habitats Directive), which underpin the Natura 2000 network of protected areas and create a comprehensive system of protection for priority species and habitats. Nature conservation projects also benefit substantially from funding through the EU's LIFE programme.
- Newly introduced Invasive Species Regulations, which seek to minimise the impact of invasive non-native species on biodiversity and human wellbeing.
- The Environmental Impact Assessment Directive and Strategic Environmental Assessment Directive, which apply to major infrastructure and development projects.
- The Water Framework Directive, establishing regulations protecting inland and coastal waters and groundwater.
- The Floods Directive, requiring assessment of flood risk and coordinated measures to reduce this risk.
- The Marine Strategy Framework

Directive, which aims to achieve Good Environmental Status for all EU marine waters by 2020.

AGRICULTURE AND FISHERIES

The Common Agricultural Policy forms the largest element of the UK's EU costs, and provides a comprehensive regulatory and subsidy regime for agriculture in the UK. Departure from the Common Agricultural Policy would have a dramatic impact, creating considerable uncertainty for farmers as an alternative subsidy system is developed. Common Agricultural Policy implementation is currently a devolved issue, and it is uncertain whether any new system would be UK-wide.

Given the UK's stance in the most recent Common Agricultural Policy renegotiations, which sought to reduce the overall budget, it is likely that direct farm payments would decrease. Agri-environment schemes would also be subject to reform, potentially offering an opportunity to improve on the current Common Agricultural Policy, which has been deemed an environmental failure (Pe'er et al, 2014). Leaving the EU would also give the UK greater freedom over pesticide licensing and the regulation of Genetically Modified crops, as EU-wide legislation would no longer apply.

Historically, the Common Fisheries Policy is widely held to have failed in delivering ecologically and economically sustainable fisheries. However, it is acknowledged by conservationists that the new reform (2013) is a significant step in the right direction, with recent trends indicating that the most economically valuable stocks, at least in northern EU waters, are showing signs of improving. The new policy also offers an unprecedented legal basis for ecosystem-based fisheries management. If the UK left the EU, it could assume full responsibility for fisheries within the UK exclusive economic zone (up to 200 nautical miles off the coast), where fishing rights are currently administered at the EU level. While this could secure sole access to the UK fishing fleet and potentially give the Government greater freedom to create ecologically sound policies, it could result in the exclusion of the UK fleet from the waters of neighbouring Member States (some of which currently have historic rights to fish in parts of UK waters) and negatively impact our trade. It is unlikely that the UK would be bound by the Common Fisheries Policy if it left the EU. Most likely

the UK would need to negotiate bilateral fishing agreements with individual EU Member States, and with Norway. Moreover, it would be a high risk strategy to suppose that the UK could reach a new agreement with the EU to work within a modified Common Fisheries Policy.

SCIENTIFIC RESEARCH

EU membership has a significant impact on scientific research in the UK. The EU is a major funder of research, and the UK has received income of around 1 billion per year in the most recent Framework Programme funding round, second only to Germany, with roughly 40% of this awarded to the biosciences. Researchers and institutions also benefit greatly from freedom of movement, facilitating recruitment and supporting collaboration between member states (Royal Society of Biology, 2015).

While non EU-member states are able to access some EU research funding, these opportunities have recently been restricted. For example, Switzerland has been partially excluded from Horizon 2020 funding as a result of restrictions to freedom of movement applied by the Swiss government.

TRIENNIAL REVIEW OF JOINT NATURE CONSERVATION COMMITTEE

During 2015 Defra and the devolved administrations are conducting a review of the Joint Nature Conservation Committee to establish the "most effective and efficient delivery model" across the UK for the functions it performs. This is part of the Cabinet Office triennial review process of all arm's length Government bodies that will take place throughout this Parliament. The review will examine the continuing need for its functions, the appropriateness of the existing delivery model, and related functions carried out by other organisations. The review is expected to report to Ministers by June 2016.

GOVERNMENT RESPONSE TO LAW COMMISSION REVIEW OF WILDLIFE LAW

On 10 November 2015 the Law Commission published its final report of a four-year project to review the law related to the conservation, control, protection and exploitation of wildlife in England and Wales. The review recommended that existing legislation be brought together under a single statute to make

it more consistent, easier to understand and simple to use, and proposed a draft Wildlife Bill. The report recommends a reduction in the current dependency on criminal law in favour of a mix of regulatory measures, but an extension of the penalty for the most serious wildlife crimes to two years' imprisonment. The Government response and decision on implementation of the report is expected in 2016.

RESEARCH FUNDING REFORMS

In late 2015, the UK Government introduced three new policy proposals that are likely to lead to significant legislative and organisational change within the UK higher education and research sector during 2016.

First, the Nurse Review of the Research Councils (see Legislation Scan 2015) recommended the creation of a new body, Research UK, to provide strategic oversight and co-ordination across the seven research councils. This proposal was endorsed in the Autumn Spending Review, and the Government intends to introduce legislation to create this new organisation.

Second, the plans outlined in the Higher Education Green Paper: *Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice*, currently in its consultation phase, will likely be crystallised in a White Paper and will require legislative change. While devolution means that the Green Paper's core proposal, to create a Teaching Excellence Framework, will only apply in England, it also proposes changes to the architecture of higher education funding that will apply across the UK. It is likely that the Higher Education Funding Council for England will be abolished, with its responsibilities for funding education passed to a new Office for Students, and its research funding capacity being delivered through Research UK.

Finally, the Government has announced a review of the Research Excellence Framework, led by Lord Nicholas Stern, with the aim of ensuring that "university research funding is allocated more efficiently, offers greater rewards for excellent research and reduces the administrative burden on institutions". The review will be delivered to Government in summer 2016.

ENTERPRISE BILL

The Enterprise Bill, which passed through the Lords in December and will soon receive its Second Reading in the Commons, contains two clauses that require regulators to report on how regulatory changes impact upon business but not on the original purpose of the regulations. The stated aims of these requirements is to allow Government, business and other stakeholders to hold regulators to account; and to ensure regulators are taking action to comply with 'the Duties'. As the Bill currently stands, these Duties require regulators to:

- consider how best they can encourage and promote compliance;
- engage with those they regulate and call on citizens and others to contribute to the development of their policies and service standards;
- review the effectiveness of their chosen regulatory activity in delivering desired outcomes and make any necessary adjustments accordingly.

HOUSING AND PLANNING BILL

The Housing and Planning Bill is designed to make provisions for housing, estate agents, rent charges and compulsory purchases. It has passed through the Commons and will be entering the Lords soon. As it stands, the measures within the Bill to speed up the planning system may have some effects on biodiversity:

- The Bill will create a register of brownfield land and the Government proposes to grant planning permission in principle for sites on the brownfield register;
- The proposed streamlining of the Local Plan process may limit the opportunity for conservation-sector bodies to engage in the planning process at an early stage. In the past, early intervention has been vital for organisations identifying key issues and ensuring they are addressed in a satisfactory manner;
- Clause 107 allows the Secretary of State to grant consent for housing through the Nationally Significant Infrastructure Project process.

JUDICIAL REVIEW

In September 2015, the Ministry of Justice launched a consultation on amendments to the current cost regime covering environmental Judicial Reviews. These proposals would make it challenging for individuals, community groups and some environmental organisations to pursue them in the interests of environmental protection. The Government has yet to confirm whether these proposals will go ahead.

MARINE PROTECTED AREAS

2016 marks the deadline of Oslo and Paris Convention's Recommendation 2003/3, to deliver an ecologically coherent network of Marine Protected Areas in the North-East Atlantic that is well-managed by 2016. The UK is further committed to the Marine and Coastal Access Act 2009, the Marine Strategy Framework Directive (and its national equivalents in each of the home nations), and by the Conservative Manifesto 2015, which promised the establishment of a Blue Belt of marine biodiversity protection by 2020.

ENGLAND

CITIES AND LOCAL GOVERNMENT DEVOLUTION BILL

The Cities and Local Government Devolution Bill has almost completed its progress through Parliament and will soon receive Royal Assent. Although it doesn't devolve any specific powers, the Bill gives power to the Secretary of State for Communities and Local Government to agree unique devolution deals with established city regions and combined authorities. Existing bids include the devolution of powers such as: housing, landscape-scale conservation, delivery of low-carbon energy sources and infrastructure, adaptation to the impacts of climate change, transport, and waste and water management.

MARINE

The second tranche of English marine conservation zones was announced at the beginning of 2016. This added a further 23 sites to the 27 designated to date and therefore another step towards fulfilling the commitment to a UK wide ecologically coherent network of marine protected areas. Evidence collection for the third tranche will start in February, with a public consultation likely to follow during 2017, with final designation in

2018. DEFRA have stated that there will be a total of three tranches, therefore this final tranche offers a critical opportunity to fill the remaining gaps in the network. These gaps include sites to protect mobile species such as seabirds, seals and cetaceans.

SCOTLAND

THE MAY 2016 ELECTION

With 2016 being an election year in Scotland, it is difficult to look much further ahead than May for 'new' legislative issues of interest to ecologists and conservationists. Non-governmental organisations are already hard at work seeking to influence Party manifestos. Whatever the outcome, any incoming Government is likely to face a continuing climate of austerity in public finances, and the public service reform agenda will continue. This continues to be framed by the 2011 report of the Christie Commission won wide cross-party support. It is expressed in terms of four key factors - people, prevention, partnership and performance – and involves communities in the design and delivery of services.

COMMUNITIES AND LAND REFORM

During 2016 the remaining sections of the Community Empowerment (Scotland) Act will come into force. This includes a requirement for a new Administration to consult on any changes proposed to the National Performance Framework, which, following a review by the Deputy First Minister, John Swinney, will include a strengthened set of environmental indicators.

Sutherland *et al.*, 2015 outlined the scope and intent of the Land Reform Bill, which continues its progress through the Parliament. The Scottish Government continues to view this alongside the Community Empowerment (Scotland) Act, together looking to empower communities and to generate sustainable economic growth by freeing-up land and other assets as resources for communities. The Act includes provisions to extend the right to buy land and other assets, and to provide powers for communities to lead or share the delivery of local services, to request the transfer of assets, and to participate in decision-making.

CLIMATE CHANGE

During 2016, the Scottish Government will prepare its third Report on Policies and Proposals under the Climate Change (Scotland) Act 2008, setting out how it intends to meet the 5th Carbon Budget (2028-2032) set by the UK Climate Change Committee. The Committee is currently reviewing the budget that it published in November 2015 to take account of the Paris Agreement of the COP21 to avoid, categorically, 2°C warming.

LAND USE STRATEGY AND BIODIVERSITY

In March, the Scottish Government will publish the revised Land Use Strategy, under the provisions of the Climate Change (Scotland) Act. Work will also continue on the *2020 Challenge for Scotland's Biodiversity* and the associated Route Map, as part of Scotland's contribution to meeting the Aichi Targets.

Red deer management, control of non-native invasive species, wildlife diseases and the role of protected areas are growing in prominence. The winter floods will undoubtedly have repercussions for the work of government, agencies and Local Authorities, and this could have a much wider reach into catchment scale planning and associated ecosystems' work.

ISLANDS WITHIN ISLES

Depending on the outcome of the elections, work will continue on an Islands Bill, seeking to "provide more power, equality and protection for the Islands to allow them to build a more prosperous and fairer future for their communities". A consultation closed in December 2014 in which the proposed Bill covered Island Proofing, Empowering Island Communities, National Islands Plan, Statutory Protection for the Na h-Eileanan Iar, Local Government Electoral Wards and general matters.

MARINE PROTECTED AREAS IN SCOTLAND

Scottish Government is aiming to establish all site designations and management by the end of 2016. Following the designation of 30 Marine Protected Areas in 2014, work has focused on management. Fisheries orders are expected to be established in the highest priority inshore Marine

Protected Areas and Special Areas of Conservation sites in the next few months. The rest of the year will then focus on the lower priority and offshore areas. Simultaneously four more Marine Protected Areas – for whales, dolphins, basking sharks and sand eels - will be consulted on to complete the network. It is also expected that 14 Special Protected Areas at sea for seabirds are consulted on in summer June 2016. These sites, established under European legislation, are critical in protecting Scotland's internationally important seabird populations. A stakeholder workshop will be held by Marine Scotland prior to the consultation. At this workshop reasons for designation and assessment requirements will be discussed with a broad range of stakeholders.

WALES

Wales continues to develop a legislative framework for sustainable and integrated planning and management of the country and to strengthen efforts to tackle key intergenerational challenges like climate change. Two of the three bills reported in last year's update are now landmark Acts, and various related Policy Statements, Plans, and Funds are progressing. An explanation of the various stages of Assembly Bills is available on the National Assembly for Wales (Senedd) website. The fifth election for the National Assembly will take place in May 2016, on the same day as those for Scotland and Northern Ireland.

THE WELL-BEING OF FUTURE GENERATIONS (WALES) ACT

The Act became law in April 2015 and many of the duties will come into force from April 2016. The Act strengthens existing governance arrangements for improving the well-being of Wales to ensure that present needs are met without compromising the ability of future generations to meet their own needs. It sets ambitious and long-term goals for a prosperous, resilient, healthier, more equal Wales, of vibrant culture with cohesive communities, and which is globally responsible in its actions. It sets the shared outcomes for Wales through seven Well-being Goals, to which the public service bodies listed within the Act have to maximise their contribution when delivering their functions and activities. It utilises the principles of sustainable development to define five

ways of working or principles. These ways of working set out how decisions must be taken and actions delivered, such as considering the long term, being preventative, involving people, taking integrated decisions and delivering collaboratively. This is to break down silos and ensure an outcome focus to public service delivery that improves the well-being of Wales, socially, environmentally, economically and culturally. It is linked to, and will support delivery of, the UN Sustainable Development Goals. A Welsh Government consultation on proposals for the national indicators to measure whether Wales is achieving the seven Well-being Goals described in the Act closed in January 2016.

The Act puts a duty on the listed public bodies to think more about the long-term, work better with people and communities and each other, look to prevent problems, and take a more joined-up approach to deliver across the seven Well-being Goals. To support this collaborative working, the Act also establishes statutory Public Service Boards.

ENVIRONMENT (WALES) BILL - NATIONAL NATURAL RESOURCES POLICY – AREA STATEMENTS

The Environment Bill was laid before the National Assembly in May 2015, and is currently moving into Stage 3. One of the main purposes of this Bill is to create the statutory framework for sustainable management of natural resources, including introducing an enhanced biodiversity and resilience of ecosystems duty that will apply to public authorities who exercise functions in relation to Wales. It also gives Natural Resources Wales additional duties and powers. This modern approach is designed to fundamentally rethink the way we manage our natural resources, so that it is done in a more proactive and joined-up way. It focuses on both the benefits of natural resources and ecosystems, and maintaining and enhancing the resilience of ecosystems, for current and future generations. It does not replace any existing environment legislation but provides a lens through which it should be applied. It is compatible with the framework and sustainable development principle established in the Well-being of Future Generations Act and enshrines the 12 principles of the UN Convention on Biological Diversity. It also puts in place

the legislative framework necessary to tackle climate change.

The Bill sets out a specific requirement on Natural Resources Wales to produce a State of Natural Resources Report, including its assessment on the extent to which sustainable management of natural resources is being achieved. Evidence is being collated now for the first report, which is expected to be published in autumn 2016. Both its development and its quality assurance are expected to include input from external researchers. Welsh Ministers will prepare a National Natural Resources Policy in response to the evidence set out in the report (expected Spring 2017). This will set out general and specific policies for the sustainable management of natural resources in Wales.

PLANNING (WALES) ACT

The Planning (Wales) Act came into force in Wales in July 2015. The act modernises Wales' planning process with sustainable development in its centre, ensuring that planning decisions consider social, economic and environmental aspects. It aims to deliver a planning system that is fair, resilient, and enables development, helping to create sustainable places where citizens have improved access to quality homes, jobs and infrastructure, whilst protecting the most important built and natural environments and supporting the use of the Welsh language.

The Act puts in place delivery structures, processes and procedures to make Wales' planning system fit for the 21st century. It strengthens the plan-led approach to decisions on planning applications by providing a legal framework for the preparation of a National Development Framework and Strategic Development Plans, which will sit above Local Development Plans.

NATURE RECOVERY PLAN

The Nature Recovery Plan is a striking example of collaborative strategy development that will underpin new legislative drivers in Wales under the Well Being of Future Generations (Wales) Act and the Environment (Wales) Bill when it is enacted. It is being produced by the Welsh Government in collaboration with the Wales Biodiversity Strategy Board, members of which represent both land and sea managers, Natural Resources Wales, the environmental third

sector, local authorities, and the Wales Biodiversity Partnership. “It is for everyone in Wales”.

The Nature Recovery Plan aims to address underlying causes of biodiversity loss by putting nature at the heart of Welsh decision-making, by increasing the resilience of natural systems (ecosystems), and by taking specific action for habitats and species. It sets out how Wales will deliver the commitments of the EU Biodiversity Strategy and the UN Convention on Biological Diversity to halt the decline in Welsh biodiversity by 2020 and then reverse that decline. Following Ministerial approval, the NRP is expected to be formally launched by March 2016.

WELSH GOVERNMENT NATURE FUND

The Nature Fund was not originally intended to finance projects in the long term but to be a catalyst during 2014-15 for changing the way in which the system operates. Some £5 million has been awarded and a follow-on scheme is expected to be launched in February 2016

WELSH NATIONAL MARINE PLAN – THE MARINE PLANNING SYSTEM – EVIDENCE PORTAL

The goals and principles of the Well-being of Future Generations (Wales) Act 2015 have been a key focus in the approach taken towards this Plan. These include the duty to use resources efficiently and proportionately, to maintain and enhance a biodiverse natural environment, to maximise the well-being of our communities, and encourage full participation in society. More specifically, the Plan is being guided by the current legislative framework for marine planning and Welsh Government policy. The overall Marine Planning System will support and inform marine licensing; directing decision makers and users towards consistent, evidence based conclusions. A comprehensive and shared evidence base that will support consistent, evidence-based decisions is accessible on the Welsh Government website. The Marine Planning Portal for Wales enables anyone to view maps online showing the distribution of human activities and natural resources in Welsh seas. The portal is an interactive planning tool that is intended to support the marine planning process by:

- Raising awareness and understanding of the marine data that are readily available for Welsh seas;
- Providing an understanding of the marine planning evidence base currently available;
- Providing interested parties with the opportunity to comment on the evidence base and the need or availability of further spatial evidence.

MARINE PROTECTED AREAS IN WALES

The Welsh Marine Conservation Zone process is expected to restart in 2016. Beginning with an informal consultation with stakeholders to discuss options for sites, a formal consultation is expected in Autumn 2016. Site selection will be based upon the outputs of the Welsh Government and Natural Resource Wales gap assessment that identifies gaps within the existing Welsh Marine Protected Area network. A consultation on four new Special Protected Areas for seabirds and three Special Areas of Conservation for harbour porpoise is also likely to begin in early 2016. It is hoped these sites, established under European legislation, will be designated in Autumn 2016 following the assembly elections.

POLICY ON THE STORAGE AND DISPOSAL OF HIGHER ACTIVITY RADIOACTIVE WASTE

Following the public consultation that ended in January 2015, the Welsh Government issued a revised policy in May 2015 that supports deep underground geological disposal for the storage of higher activity radioactive waste. This type of disposal is now supported in both England and Wales, but not in Scotland, where the Scottish Government’s policy instead favours the long-term management in near-surface facilities of radioactive wastes. Scotland’s approach is not prescriptive, however, recognising that it applies to waste that may not be produced for decades and for which long-term management options may not be feasible at present or have yet to be developed. In December 2015, following a further public consultation to seek views on the processes by which a Geological Disposal Facility might be sited in Wales, Welsh Government adopted a new policy on Community Engagement and Implementation Processes on Geological Disposal of

Higher Activity Radioactive Wastes. A UK Government initiated project is now developing the processes and potential options for a national facility to be sited in England or Wales. Similar projects are being undertaken across the world in countries that need to dispose of high activity radioactive waste. This nationally significant project is highly complex and sensitive. If a suitable location and a host community is identified and agreed, construction will take decades to see completion. Both Natural Resources Wales and the Environment Agency are engaged in the regulatory scrutiny of this project.

HISTORIC ENVIRONMENT (WALES) BILL

This Bill was introduced by the Deputy Minister for Culture, Sport and Tourism, in May 2015 and is currently at Stage 3. The Business Committee has remitted the Bill to the Communities, Equality and Local Government Committee. It forms part of a suite of legislation, policy, advice and guidance that makes important improvements to the existing systems for the protection and sustainable management of the Welsh historic environment. In broad terms, the Bill gives more effective protection to listed buildings and scheduled monuments, enhances existing mechanisms for the sustainable management of the historic environment, and introduces greater transparency and accountability into decisions taken on the historic environment. The Bill creates new measures that includes: creating a statutory register of Wales’ historic parks and gardens; securing a more stable future for Wales’ historic environment records and establishing an independent panel.

NORTHERN IRELAND

ENVIRONMENTAL GOVERNANCE

Environment Minister Mark H Durkan has undertaken a review of Environmental Governance, with a central focus on the creation of an Independent Environmental Protection Agency. At this time, Northern Ireland is the only region of the UK and Ireland not to have an independent agency. The consultation timing is interesting, given the fact that after the May 2016 elections, the Department of Agriculture and the Department of the Environment will be merged to form the

Department of Agriculture Environment and Rural Affairs. This poses both an opportunity in that agriculture and environment issues will be dealt with by same department and a challenge where the voice of the environment could be lost against a bigger focus on agricultural issues.

CLIMATE CHANGE

The Department of the Environment has recently released a discussion document on the merits of introducing primary legislation on Climate Change in Northern Ireland. The purpose of this discussion document is to seek views on the possible form and content of Northern Ireland climate change legislation. This would have implications for both mitigation and adaptation with emission reduction targets and obligations for renewable energy. Responses for this paper are expected at the end of January 2016 and the debate will continue after the elections in May 2016 when the priorities are decided. Alongside this the Environment Minister hosted an evening session of the Northern Ireland Assembly (Monday 30th November 2015) where members passed a motion in support of the COP21 UN Climate Change Conference by 46 to 43. This motion calling for a climate bill passed by 46 to 42 giving political weight to the potential introduction of climate legislation in the next assembly term.

MARINE CONSERVATION ZONES CONSULTATION AND IMPLEMENTATION

Marine Division is consulting on proposals for new Marine Conservation Zones in Northern Ireland. Designation powers became available in Northern Ireland under the Marine Act (2013). Since that time, Marine Division and stakeholders have been working through the scientific evidence for sites leading to four proposals as set out in the consultation. These include deep sea-bed and black guillemot at Rathlin Island, sub tidal sea grass beds in Waterfoot, Ocean Quahog in Belfast Lough and sea pens and white sea slug communities in Carlingford Lough. The consultation will close in March 2016 with implementation/designation from December 2016.

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