

APPENDIX 20.2 LEGISLATION AND POLICY

20.1 Legislative Framework

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, which transposes The Water Framework Directive (WFD) (2000/60/EC)¹

20.1.1 Directive 2000/60/EC of the European Parliament and Council (the Water Framework Directive (WFD)) came into force on 22nd December 2000 and established a framework for community action in the field of water policy.

20.2.1 This EU directive was transposed into English and Welsh law by The Water Environment (WFD) (England and Wales) Regulations 2017². The WFD is designed to enhance the status and prevent further deterioration of aquatic ecosystems and associated wetlands, to promote sustainable water use, to reduce pollution of water and to ensure a progressive reduction in groundwater pollution. The WFD established a strategic framework for managing the water environment and requires a management plan for each river basin to be developed every six years. The competent authority (in England) for delivering the WFD is the Environment Agency (EA).

The Groundwater (England and Wales) Regulations (2009), which transposes The Groundwater Daughter Directive (2006/118/EC)³

20.3.1 Directive 2006/118/EC of the European Parliament and Council (the 'Groundwater Daughter Directive') came into force on 12th December 2006 and aims to protect groundwater against pollution and deterioration. The Groundwater (England and Wales) Regulations (2009) transposes The Groundwater Daughter Directive (2006/118/EC). The Groundwater Daughter Directive was developed in response to the requirements of Article 17 of the WFD (2000/60/EC) and specifies measures to prevent and control groundwater pollution (by providing criteria for the assessment

¹ European Union (2020), DIRECTIVE 2000/60/EC of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/eudr/2000/60/contents>.

² UK Government (2017), Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/uksi/2017/407/contents>.

³ European Union (2006), DIRECTIVE 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration [online]. Accessed February 2024. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:372:0019:0031:EN:PDF>.

of good groundwater chemical status, criteria for the identification and reversal of significant and sustained upward trends and for defining a baseline status).

The Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2015, which transposes The Priority Substances Directive (2008/105/EC)⁴

20.4.1 Directive 2008/105/EC of the European Parliament and Council (the Priority Substances Directive) came into force on 16th December 2008 and sets environmental quality standards in the field of water policy. The Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2015 transposes The Priority Substances Directive (2008/105/EC). The Priority Substances Directive was developed in response to the requirements of Article 16 of the WFD and requires the identification of priority substances to set Environmental Quality Standards ('EQSs') for the concentrations of the priority substances in surface waterbodies and to review periodically the list of priority substances.

*Environment Act 2021*⁵

20.5.1 The Environment Act 2021 was passed into law in November 2021. The purpose of this legislation is (amongst other things) to make provision about targets, plans and policies for improving the natural environment.

*The Environment Protection Act 1990*⁶

20.6.1 The Environmental Protection Act 1990 brought in a system of integrated pollution control for the disposal of wastes to land, water and air and covers statutory nuisances.

*The Land Drainage Act 1991*⁷

20.7.1 The Land Drainage Act 1991 requires the owner of a watercourse to maintain the watercourse in such a condition that the free flow of water is not impeded. The owner must accept the natural flow from upstream but need not carry out work to cater for

⁴ European Union (2008), DIRECTIVE 2008/105/EC of the European Parliament and of the Council. Accessed September 2023. Available at: <https://www.legislation.gov.uk/eudr/2008/105>.

⁵ UK Government (2021), The Environment Act 2021 [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/ukpga/2021/30/contents>.

⁶ UK Government (1990), The Environmental Protection Act 1990 [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/ukpga/1990/43/contents>.

⁷ UK Government (1991), The Land and Drainage Act 1991 [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/ukpga/1991/59/contents>.

increased flows resulting from some types of works carried out upstream, for example, a new housing development.

The Water Resources Act 1991⁸, Water Act 2003⁹, and Water Act 2014¹⁰

20.8.1 The Water Resources Act 1991 aims to prevent and minimise pollution of water (surface and groundwater) and tasks the policing of this Act to the EA. The Water Act 2003 amended the Water Resource Act 1991 to improve long-term water resource *management by making* changes to licencing. The Water Act 2003 also aims to promote water conservation, increase competition, strengthen the voice of consumers, and promote the suitable use of water resources. The Water Act 2014 aims to reform the water industry to make it more responsive to customers and to increase the resilience of water supplies to droughts and flooding. It also brings in measures to address the availability and affordability of insurances in high flood risk areas.

20.1 Policy

Future Wales: The National Plan 2040

20.9.1 Future Wales: The National Plan 2040 was published in February 2021 and forms the National Development Framework for Wales, setting out the direction for development to 2040. Future Wales: The National Plan 2040 contains numerous paragraphs concerning water resources, flooding, water quality and protection of the environment during development.

Planning Policy Wales (Edition 11)

20.10.1 Planning Policy Wales (PPW) was republished in February 2021 alongside the National Plan. PPW outlines land use planning policies, supported by topic based Technical Advice Notes, and includes numerous paragraphs concerning water resources, flooding, water quality and the protection of the environment during development.

⁸ UK Government (1991), The Water Resources Act 1991 [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/ukpga/1991/57/contents>.

⁹ UK Government (2003), The Water Act 2003 [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/ukpga/2003/37/contents>.

¹⁰ UK Government (2014), The Water Act 2014 [online]. Accessed February 2024. Available at: <https://www.legislation.gov.uk/ukpga/2014/21/contents>.

Caerphilly County Borough Council Local Development Plan 2010 (CW5: Protection of the Water Environment)

20.11.1 Caerphilly County Borough Council's Local Development Plan (LDP) was adopted on 23rd November 2010 and is the basis for decision making on land use planning in Caerphilly. The relevant objectives and policies of the Caerphilly County Borough Council LDP are summarised below:

- KO5: Improve energy, waste and water efficiency while promoting environmentally acceptable renewable energy to maintain a cleaner environment and help reduce our impact on climate change.
- KO14: Manage, protect and enhance the quality and quantity of the water environment and reduce water consumption.
- Paragraph 1.45: Ensure development contributes towards necessary infrastructure improvements – this includes utilities such as water supply, sewers, waste management, electricity, gas and telecommunications.
- Paragraph : Ensure development provides necessary community facilities - the inclusion of formal and informal open spaces within new development is important for a number of reasons including the protection of groundwater.
- SP5E: The Plan defines settlement boundaries in order to incorporate resource efficiency and passive solar gain through layout, materials, construction techniques, water conservation, and where appropriate the use of sustainable systems.
- CW5: Protection of the Water Environment – development proposals will only be permitted where they do not have an unacceptable adverse impact upon the water environment, and where they would not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water).
 - Whilst the Environment Agency Wales has a regulatory role in relation to water quality, the planning system has a crucial role to play in limiting the adverse effects of development on the water environment.
 - Climate change, increases in populations and changes in lifestyle have all had an impact upon the water environment and the pressures upon it. Climate change will affect the amount of rain that falls, it will impact upon river flows, replenishing of groundwater, the quality of water available and incidents of flooding, particularly localised, flash flooding. The demands

and pressures on water resources will also change, with the scale and nature of the problem differing across Wales, as will the approach to dealing with the problems. The approach to the protection of the water environment will need to take into account the quality and quantity of the local water resource, and how this impacts upon the wider environment in terms of preventing further deterioration of aquatic ecosystems, associated habitats, fisheries, promoting the sustainable use of water, and controlling water abstractions. This is particularly 50 important in terms of any development proposals that are likely to impact on the rivers Rhymney, Ebbw and Sirhowy.