

EXPLANATORY MEMORANDUM TO
THE ENVIRONMENTAL TARGETS (BIODIVERSITY) (ENGLAND)
REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before by Parliament by command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to create legally binding targets in the priority area of biodiversity. These are to halt the decline in species abundance by 2030, reverse the decline in species abundance by 2042, reduce the risk of species extinction by 2042 and to restore or create in excess of 500,000 hectares of wildlife-rich habitat outside of current protected sites by 2042.
- 2.2 This instrument satisfies the requirement in section 1(2) of the Environment Act 2021 (“the Environment Act”) for government to set at least one target in the priority area of biodiversity, and in section 3(1) and 3(2) of the Environment Act for government to set a target relating to the abundance of species with a specified date of 31st December 2030.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument, along with the other 5 environmental target instruments, sets legally binding targets on the Secretary of State. The instrument does not, in itself, set specific policies or new legislation that sectors must follow, nor does it directly impose or require immediate changes of behaviour by others. Given the importance of setting targets without delay, the instrument will come into force at the earliest date after approval (one day after the day it is made).

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and the territorial waters adjacent to England.

5. European Convention on Human Rights

- 5.1 Trudy Harrison MP, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:

“In my view the provisions of The Environmental Targets (Biodiversity) (England) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 1 of the Environment Act requires the Secretary of State to set a long-term target in respect of at least one matter with each of four priority areas including biodiversity.
- 6.2 Section 3 of the Environment Act created an obligation on government to set, by regulations, a species abundance target with a specified date of 31st December 2030. The Secretary of State must be satisfied that meeting the target would halt the decline in the abundance of species.
- 6.3 This instrument will fulfil those duties and is part of a group of instruments that will set targets in biodiversity, air quality, water, resource efficiency and waste reduction.

7. Policy background

What is being done and why?

- 7.1 Biodiversity globally is in decline. In England species abundance has fallen by 52% since 1970. The Environment Act creates a legal requirement for the government to set a target that will halt the decline in species abundance by 2030 and at least one additional long-term target in relation to biodiversity. This instrument fulfils those requirements by setting a 2030 species abundance target and three long-term targets in relation to biodiversity covering species abundance, species extinction and habitat restoration and creation.
- 7.2 In the Environment Act, the Government committed to setting a target to halt the decline in species abundance by 2030. The long-term species abundance target builds upon the target to halt the decline in species abundance by 2030, ensuring that by 2042 species abundance is greater than in 2022 and at least 10% greater than 2030, thereby establishing a clear recovery trend.
- 7.3 As well as taking action for widespread species, it is important to prevent the loss of the rarest or fastest declining species while preventing species at a lesser threat risk from further decline. The long-term target to reduce the risk of species extinction by 2042 will incentivise bespoke species actions for some of our most threatened species where they are needed. Setting targets for both species abundance and species extinction will help ensure that the collective approach to recovering biodiversity is representative.
- 7.4 In order to recover species we need more habitat that is bigger, in better condition and better connected. The long-term habitats target to restore or create in excess of 500,000 hectares of wildlife-rich habitat outside of current protected sites by 2042 will directly address these issues.

Measurement of the targets

- 7.5 The 2030 species abundance target and the long-term species abundance target are to be measured using an overall relative species abundance index, which is calculated from the individual relative species abundance indices for the species listed in Schedule 2 of this instrument. The 2030 species abundance target will be met if the value of the overall relative species abundance index for 2030 is the same or greater than the value for 2029. The long-term species abundance target will be met if the value of the overall relative species abundance index for 2042 is greater than the value for 2022 and at least 10% higher than the value for 2030.

- 7.6 The species extinction risk target is to be measured using the Red List Index for England, which is a value between 0 and 1, where 0 means all the species in the Index are Regionally Extinct and 1 means all the species in the Index are of Least Concern. For the target to be met, the value calculated in 2042 must be greater than the baseline value for 2022, which is 0.9070.
- 7.7 The habitat restoration and creation target is to be measured by compiling a record of actions which have been or are being undertaken to restore or create wildlife-rich habitat, on or after the date that these regulations come into force. The record must cover the location of the action, the size of the area that is intended to become wildlife rich habitat and the type of wildlife-rich habitat that is being restored or created.

What did any law do before the changes to be made by this instrument?

- 7.8 There is no current legislation which puts a legal requirement on government to address the overall decline of nature to a specified level within a specific timeframe.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There will be no consolidation of legislation as a result of this instrument.

10. Consultation outcome

- 10.1 The government has committed to setting the target to halt the decline in species abundance by 2030 in the Environment Act and therefore this target was not subject to consultation.
- 10.2 Public consultation on the three long-term targets took place between 16th March and 27th June 2022, as part of the consultation on the wider package of environmental targets under the Environment Act. The consultation included 11 questions on the biodiversity targets, for which numbers of responses ranged from 123, of which one was a campaign response, to 11,547, of which 10,624 were campaign responses or signatures by petition.
- 10.3 **Long-term species abundance target:** The vast majority of responses disagreed with the proposed ambition for this target. Respondents wanted greater ambition and were concerned with the reliance on an uncertain 2030 baseline over a 2022 baseline. We have now included a 2022 baseline, but increasing ambition further is not supported by the extensive evidence base.
- 10.4 **Species Extinction:** The name of the indicator consulted on has changed. The majority of respondents disagreed with the ambition for this target. Respondents were concerned about the lack of a specified level of improvement and the use of a red list indicator. The indicator moves slowly, with modest changes reflecting significant reductions in extinction threat, so we have decided against setting a specific level of increase that would be hard to quantify. Other metrics were explored but it was concluded that the proposed approach was most suitable.
- 10.5 **Wider habitats:** The majority of responses disagreed with the ambition for this target. Respondents wanted a greater amount of wildlife-rich habitat to be created and for the target to be a net increase in habitat. There is not sufficient evidence to be confident that a greater target would be achievable. The target wording reflects that

500,000 hectares is not the limit of our ambition. Given existing data, it is not possible to fully account for habitat loss and so we cannot set a net target. We also consulted on the definition of wildlife-rich habitats, which the majority of respondents agreed with. We are also including native woodland and mixed woodland as wildlife-rich to capture the benefits of a range of woodland habitat.

- 10.6 A complete summary of how consultation feedback has been considered is available in the Government Response document.
<https://www.gov.uk/government/consultations/environment-act-2021-environmental-targets>

11. Guidance

- 11.1 The target in this instrument is legally binding on government. The government will need to take measures to ensure the relevant sectors take actions required to meet the target including through issuing relevant guidance and advice separately. The instrument does not, in itself, set specific policies or new legislation that sectors must follow.

12. Impact

- 12.1 The impact on the public sector, business, charities or voluntary bodies is dependent on policy pathways not prescribed by this instrument. Illustrative pathways are set out in the Impact Assessment, with an assessment of potential costs and benefits.
- 12.2 The primary monetised costs are the costs of direct conservation actions deemed necessary to meet the targets. Total discounted costs for 2022 to 2100 are estimated to be £7,714m in the central scenario. Total monetised benefits in the central scenario are estimated to be £28,576m.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 Progress towards meeting the biodiversity targets will be monitored through the statutory cycle of monitoring, planning and reporting set out in the Environmental Act.
- 14.2 The instrument does not include a statutory review clause as the legal obligations in this regard under the Small Business, Enterprise and Employment Act 2015 do not apply.

15. Contact

- 15.1 Becky Price at the Department for the Environment, Food and Rural Affairs
Telephone: 02087 200 161 email: Rebecca.price@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Verity Zurita, Deputy Director for National Biodiversity, at the Department for the Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Trudy Harrison, MP, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.