EXPLANATORY MEMORANDUM TO

THE ENVIRONMENT (LOCAL NATURE RECOVERY STRATEGIES) (PROCEDURE) REGULATIONS 2023

2023 No. 341

1. Introduction

1.1 This explanatory memorandum has been prepared by Department of Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument sets out the procedure to be followed in the preparation, publication, review, and republication of local nature recovery strategies.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument is being made in exercise of the power conferred by section 105(4) of the Environment Act 2021 ('the Act') and such powers are brought into force by regulation, "The Environment Act 2021 (Commencement No. 2 and Saving Provision) Regulations 2022". These commencing regulations came into force on 24 January 2022.

6.2 This instrument is subject to the negative procedure per the Act, section 105(6). Section 143(5)(a) of the Act states that such instruments are subject to annulment in pursuance of a resolution of either House of Parliament.

7. Policy background

What is being done and why?

7.1 Local nature recovery strategies are an important part of an ambitious package of measures introduced by the Act to reverse nature's decline. They are a new system of county-scale spatial strategies that will cover the whole of England and will identify where action for nature will have particular benefit, both for nature itself and for the

wider natural environment. They have been designed to work with other measures (Environmental Improvement Plans, legally binding targets, biodiversity net gain, strengthened "biodiversity duty", Species Conservation Strategies and Protected Sites Strategies) to help join-up and delivery in a coherent and effective way.

7.2 Preparation of each strategy will be locally led by a "responsible authority", appointed by the Secretary of State, who must:

- Map the most valuable existing areas for nature
- Agree priorities for nature's recovery and
- Map specific proposals for creating or improving habitat for nature and wider environmental goals.

7.3 This statutory instrument ensures that the strategies are prepared, published, reviewed, and republished in a coherent and consistent process across the country. It gives powers to the responsible authority to obtain information to be included in their strategy, places requirements on how the responsible authority must work with others to drive collaboration and establish minimum quality standards. It also provides for how disputes between the responsible authority and other parties will be resolved.

7.4 This instrument has been developed to work alongside statutory guidance prepared under section 106(5) of the Act. It will set out how a local nature recovery strategy must be prepared whereas the statutory guidance will explain what it should include, building on the requirements in section 106 of the Act.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 The preparation of this instrument has been informed by five county-scale pilots (from August 2020 to May 2021) a public consultation and engagement with key stakeholders, including local government, environment non-governmental organisations, landowner, and land-manager sector. Lesson learned from the five pilots have been published in a report.

10.2 A public consultation entitled "Local Nature Recovery Strategies: how to prepare and what to include" ran from 10 August 2021 to 2 November 2021. It explained that government regulations and statutory guidance will, together, play an important role in the consistent implementation of local nature recovery strategies in England. Parts 1 to 4 of this consultation relate to this statutory instrument: how local nature recovery strategies should be prepared, published, reviewed, and republished.

10.3 During the consultation period, Department of Environment, Food and Rural Affairs officials also held stakeholder workshops and meetings, where suggestions, experiences and options were discussed. These workshops and meetings included: executive directors from major environmental non-governmental organisations, Local

Nature Partnerships, the Association of Directors of Environment, Economy, Planning and Transport, the National Association of Local Councils, the Greater London Authority, Country, Land and Business Association, the Catchment Based Approach, the Royal Town Planning Institute, and a Protected Landscapes Contact Group.

10.4 In total, the consultation received 389 responses to the consultation survey website, 36 of whom sent additional views via email. A further 40 responses were received just via email. This included 117 responses from 'Individuals and other', 91 responses from environmental non-governmental organisations, 70 responses from local authorities and 67 responses from landowners, businesses, and representative groups. There were also responses from 21 Local Nature Partnerships, 5 National Park Authorities and 3 Area of Outstanding Natural Beauty organisations, as well as the Campaign for National Parks and National Parks England.

10.5 The "Government response and summary of responses" to the consultation has been published. This includes a summary of responses received to each question and explains how these have been reflected in the approach taken by this instrument and the associated statutory guidance.

11. Guidance

11.1 This instrument has been developed to work alongside statutory guidance prepared under section 106(5) of the Act. This guidance has been laid before Parliament alongside this instrument, as required by the Act, and published.

11.2 The Department of Environment, Food and Rural Affairs is also developing explanatory and training materials for the responsible authorities who, once formally appointed, will be the primary audience for the statutory instrument and guidance.

12. Impact

12.1 There is no significant impact on business, charities, or voluntary bodies.

12.2 The impact on the public sector is a £35.00m cost to government over 10 years (in 2022 prices).

12.3 A full Impact Assessment has not been prepared for this instrument because it was assessed that the equivalent annual net direct cost to business (EANDCB) was £0.3m, which is significantly below the ± £5m EANDCB threshold that will require an impact assessment. It is assessed that there were no significant burdens to business. A Regulatory Triage Assessment has been submitted.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 The policy does not contain an exemption for small and micro business on the basis that the assessed costs of engaging with the policy is small. Engagement is also voluntary, so whether participation costs to business will materialise is significantly uncertain.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the Department for Environment, Food and Rural Affairs will monitor and review the impact of the instrument as part of their standard policy-making procedures.

15. Contact

15.1 Andrew Holden at the Department for Environment, Food and Rural Affairs. Telephone: 0208026725 or email: andrew.holden@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Rachel Fisher, Deputy Director for Land Use, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

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