EXPLANATORY MEMORANDUM TO

THE WILDLIFE LICENCE CHARGES (ENGLAND) ORDER 2025

2025 No. 236

1. Introduction

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

2. Declaration

2.1 Mary Creagh, Minister for Nature at Defra confirms that this Explanatory Memorandum meets the required standard.

2.2 Sarah Swash, Deputy Director for National Biodiversity at Defra, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Simon Mackown at Defra, Telephone: +442080266900 or email: species.recovery.reintros@defra.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Wildlife Licence Charges (England) Order 2025 ("the 2025 Order") replaces the Wildlife Licence Charges (England) Order 2018 ("the 2018 Order"). The 2025 Order introduces amendments to the charges for certain licences issued by Natural England ("NE") relating to wildlife conservation, and introduces charges for the new bat recognition class licensing routes for mitigation work on bat roosts.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 NE, as the statutory body responsible for the natural environment in England, manages the wildlife licensing service for legally protected species on behalf of Defra. Licences are required to balance the protection of species with wider societal needs (e.g. development activity, public health, heritage conservation, etc.), allowing the licence-holder to undertake activities which would otherwise be illegal. Licensed activities cover

the disturbance or removal of certain protected wildlife species, or damage to their habitats.

5.2 The licence fees and charges within the 2018 Order, set against the cost to NE to deliver the licensing service, are resulting in an under-recovery to NE. This is because those fees and charges did not account for inflationary impacts. This limits NE's ability to introduce further licensing service reforms and is against the policy objective of the Natural Environment and Rural Communities Act 2006 ("2006 Act") to recover the costs of the licensing service from applicants where appropriate. As a result, NE is not making a full cost recovery, and this means the 2018 Order is non-compliant with the HM Treasury principle set out in Managing Public Money to seek to recover costs in full. It is also non-compliant with the HM Treasury principle on "Polluter Pays", which is also set out in Managing Public Money.

5.3 The 2025 Order therefore serves to correct the under-recovery by introducing amended licence charges. It also introduces new, chargeable licensing routes which give more choice to those using the service. The amended charges will also enable service improvements such as further digitization of the licensing process, which will speed up the processing of licence applications.

5.4 The funding of the licence service will remain a mixture of taxpayer funding (for example, for general licences, which are not within the scope of this Order, and charge-exempt licences) and applicant funding for the remainder.

5.5 The exemptions from charging set out in the 2018 Order remain extant in the 2025 Order. Examples include; for the purposes of preserving public health or public safety; for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property; scientific, research or educational purposes relating to a protected species or habitat; or to maintain or improve the conservation of an historic property.

What was the previous policy, how is this different?

5.6 One of the policy objectives of the 2006 Act is to recover the costs of the licensing service from applicants where appropriate. The approach reflects Government policy to charge for many publicly funded goods and services. The amendments to the charges set out in the 2025 Order will ensure compliance with the policy objectives of full cost recovery, and meet the HM Treasury principle set out in Managing Public Money.

6. Legislative and Legal Context

How has the law changed?

6.1 The 2018 Order was the first use by the Secretary of State of the power under section 11 of the 2006 Act to make provision requiring charges to be paid for licences issued by NE. The 2018 Order introduced charges for licences issued under the Wildlife and Countryside Act 1981, the Protection of Badgers Act 1992, the Deer Act 1991, and the Conservation of Species and Habitats Regulations 2017. The 2025 Order amends the charges set out in the 2018 Order.

6.2 The 2025 Order also introduces charges to be paid for the Bat Earned Recognition class licence which allows accredited bat ecologists to carry out bat roost mitigation work under the class licence.

6.3 There are no legal issues foreseen by introducing this legislation.

Why was this approach taken to change the law?

6.4 According to Section 11 of the 2006 Act, new secondary legislation is required to introduce amended wildlife management licence charges.

7. Consultation

Summary of consultation outcome and methodology

7.1 NE ran a public consultation on Defra's consultation hub from 6 February 2024 to 19 March 2024. There were 152 responses to the consultation. There were mixed responses to the proposed amendments to the licence charges, but in general, a slightly higher percentage of respondents were in favour than were against. Where possible, NE acted on the consultation feedback. For example, approximately 60% of respondents were against the proposed charges for the new Bat Earned Recognition licensing route. NE has taken this into account and lowered the charges for this route within the 2025 Order. NE's response to the consultation has been published on the website responsetowildlifelicencechargesconsultation2024-naturalengland.pdf (defra.gov.uk)[1]

8. Applicable Guidance

8.1 Ahead of the 2025 Order coming into force, NE will communicate the forthcoming changes to the licence charges via their "wildlife licence newsletter", by direct email to registered licence holders, and in an article in the CIEEM magazine.

8.2 When the 2025 Order enters into force, NE will update the "Terms and Conditions for payment of wildlife licence charges[2]" and Natural England wildlife licences when you need to pay[3] to reflect the new licence charges.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is an exclusion within the Better Regulation Framework covering measures relating to Taxes, Duties and other Charges (which includes fees). This exclusion brings this regulation out of scope of the Better Regulation Framework. This measure only covers the fees and doesn't seek to impose any new restrictions or conditions on business, so is therefore exempt in its entirety.

Impact on businesses, charities and voluntary bodies

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

9.3 The impacts of the requirements on small businesses (employing up to 50 people) have been managed through a number of measures: costs for some survey licences have been reduced based on projected efficiency savings. Impacts of mitigation licence costs issued to small businesses should be offset by the benefits of reduced delays in issuing licences,

[1] https://consult.defra.gov.uk/natural-england/wildlifelicencecharges/results/responsetowildlifelicencechargesconsultation2024-naturalengland.pdf
[2] https://www.gov.uk/government/publications/terms-and-conditions-for-paying-for-a-wildlife-licence/terms-and-conditions-for-payment-for-the-issue-of-wildlife-licences
[3] https://www.gov.uk/guidance/wildlife-licences#:~:text=conditions%20that%20apply.-,When%20you%20might%20need%20to%20pay,-Natural%20England%20charges

and the exemption for householder development projects should help to avoid any impact on small businesses engaged in this sector.

9.4 The basis for the final decision on what action to take to minimise impacts on small businesses was determined through conversations with stakeholders (including representative bodies) and through the public consultation.

9.5 There is no, or no significant, impact on business, charities, or voluntary bodies because this measure represents a low cost to business.

9.6 The legislation does impact small or micro businesses. However, the costs associated with obtaining a licence can be passed on to the end user. This is in line with the "polluter pays" principle.

9.7 There is no, or no significant, impact on the public sector because NE will be able to recover those costs through the chargeable licence fees.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 As part of its administration of the licensing service, NE will periodically monitor and review the income received from the fees and charges set against their associated licensing costs. Where there is an under-recovery, NE will seek to recover those costs through an amendment to this legislation. NE will also review the service and licences to ensure they remain fit for purpose.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 No ECHR statement is required for a made negative Statutory Instrument.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").