# EXPLANATORY MEMORANDUM TO

# THE NATURE RESTORATION LEVY REGULATIONS 2026

# 2026 No. [XXXX]

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Alex Bush, Deputy Director for Nature Restoration Fund at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 The policy team at the Ministry of Housing, Communities and Local Government can be contacted with any queries regarding the instrument: Nutrient.PPD@communities.gov.uk.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 These Regulations relate to the implementation of the Nature Restoration Fund ("NRF"). The NRF is established by Part 3 of the Planning and Infrastructure Act 2025 ("the Act") and is an alternative approach for developers to meet certain environmental obligations relating to protected sites and species.

4.2 This instrument sets out the framework by which the nature restoration levy ("the levy"), which funds the NRF, operates.

***Where does the legislation extend to, and apply?***

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

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

## 5. Policy Context

***What is being done and why?***

5.1 Existing approaches to protect and restore our most important habitats and species have not been able to reverse the trend of environmental decline, while creating significant barriers to building the homes and infrastructure required.

5.2 The NRF enables Natural England to bring forward Environmental Delivery Plans ("EDPs"), which set out the strategic action to be taken to address the impact that development has on a protected site or species. This will include a package of conservation measures sufficient to address the environmental impacts of development covered by the EDP and secure an environmental uplift. Crucially, these actions must go further than the current approach and support nature recovery, providing an overall improvement to the conservation status of the identified environmental features.

5.3 Where an EDP is in place and is used by a developer, the developer is no longer required to undertake their own assessments, or deliver project-specific interventions, for issues addressed by the EDP. In order to use an EDP the developer is required to commit to pay the levy. Funds from the levy are used to pay for the conservation measures set out in the EDP.

5.4 This creates the opportunity for housing and infrastructure to do more for environmental recovery. Rather than being limited to addressing the impact of a single development, an EDP will be able to pool resources and deliver conservation measures at scale to maximise the outcome for the environment. At the same time, developers will benefit from a streamlined process and simple user experience.

5.5 This instrument provides the legislative framework setting out how the levy operates. Natural England will be responsible for administering the levy in accordance with the Act and these Regulations, as well as general public law principles in relation to matters which are not prescribed by those enactments.

***What was the previous policy, how is this different?***

5.6 Previously, a developer would be required to undertake their own assessments or deliver project-specific interventions to mitigate certain environmental impacts. At most, this required developments to offset their impact with precisely calculated project-by-project measures.

5.7 Where an EDP is in place and a developer utilises it, the developer is no longer required to do so in respect of the environmental impacts addressed by the relevant EDP. Levy payments fund conservation measures which more than offset those environmental impacts, but rather deliver an overall improvement.

5.8 This new system will provide greater certainty for developers while enabling Natural England to deliver more strategic environmental improvements.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 Part 3 of the Act introduces the levy, providing developers with the option to discharge certain environmental obligations by paying the levy charged in accordance with a relevant EDP. This enables the disapplication of obligations as set out in Schedule 3 to the Act where the relevant development has relied on an EDP by making a commitment to pay the levy. In relation to some EDPs, where necessary, payment of the levy will be mandatory rather than optional.

6.2 These Regulations define the process for managing liability to pay the levy. In most cases, a person must assume liability before development commences, although the developer will sometimes be automatically liable. Liability will generally arise when a person assumes liability to pay. When liability arises, Natural England must give a liability notice to each liable person, which can be sent by one of a variety of methods including post, email or other appropriate electronic means (such as through a digital system set up for the purpose of administering the levy).

6.3 The Regulations also set out the parameters with reference to which the levy must be calculated, paid and used. The levy seeks to recover the costs of implementing conservation measures under an EDP. That includes in relation to creating and administering the EDP itself, such as system-wide costs without which the EDP and conservation measures could not operate. In order to ensure that conservation measures under an EDP are properly funded, even where levy payments are not received until several years after the EDP was made, amounts calculated and paid under an EDP's charging schedule(s) are required to be uplifted for inflation.

6.4 The Regulations also provide for enforcement of the levy as well as reviews and appeals of certain decisions in relation to the charging of the levy.

***Why was this approach taken to change the law?***

6.5 Legislation is required to create a legally enforceable levy, to define how liability to pay the levy arises and is managed, and to establish the necessary framework for payments, appeals and enforcement. Without these Regulations, an EDP could not be made and therefore the NRF could not operate.

6.6 The approach taken in this instrument seeks to ensure that the NRF can operate effectively, balancing a straightforward user experience for developers using an EDP with a sound system of enforcement so that the levy is paid as expected. The overall aim of the Regulations is to ensure that costs incurred in maintaining or improving the conservation status of environmental features can be funded by developers in a way that does not make development economically unviable.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 Views of the sector and relevant experts were sought as part of the development of the Act through a Planning Reform Working Paper on Development and Nature Recovery.

7.2 No formal consultation has been conducted for this instrument, as it implements previously agreed policy and is procedural in nature. Individual EDPs will be subject to formal consultation. The Government is also conducting focused engagement with relevant stakeholders on wider NRF implementation.

## 8. Applicable Guidance

8.1 To support effective implementation, the Secretary of State will publish statutory guidance on the NRF and the levy before the first EDPs are made. The guidance will focus on the practical application of the powers and duties set out in these Regulations. This guidance will build on the processes established in the Regulations and will provide detail on how they should be operationalised in practice, including in relation to setting the levy, managing liability and payments, and administering the system. The aim will be to support Natural England in exercising its functions in compliance with the regulatory framework and to support developers and LPAs navigating this new system. As producing and finalising these Regulations has been the priority, it has not been possible to produce guidance ahead of the Regulations being laid, but work is ongoing at pace to ensure that the guidance will be published in a timely manner ahead of the first EDPs being made.

## 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 the Act, which this instrument implements, was subject to a full Impact Assessment which included an assessment of the NRF. That Impact Assessment is available online at: https://www.gov.uk/government/publications/planning-and-infrastructure-bill-impact-assessment.

9.2 Additionally, as per the Better Regulation Framework (2023), an impact assessment is not required for regulatory provisions that "are in connection with […] imposing, abolishing, varying or in connection with any tax, duty, levy or other charge". As these regulations will deal only with the operation and administration of the levy, and not the wider NRF, the levy regulations are outside the scope of the Framework. As such, the Framework does not require an impact assessment to be carried out.

***Impact on businesses, charities and voluntary bodies***

9.3 The impact on business, charities or voluntary bodies is optional or minimal: the levy will in most cases be optional for developers and provides an alternative route to discharge environmental obligations and will exist alongside the option to secure mitigation under the existing system.

9.4 Where there is a relevant EDP, developers will in most cases have the option to request to pay the levy in order to fulfil relevant environmental obligations, streamlining this process and reducing delays related to certain requirements under the current system. Natural England will then take responsibility for securing positive environmental outcomes at a strategic rather than site specific level. The impacts are therefore expected to be positive for businesses.

9.5 The legislation may impact small or micro businesses, as described in 9.2.

9.6 Exemption for small or micro businesses is not appropriate, as the levy will in most cases be voluntary and apply only where developers opt into the EDP route.

9.7 There is no significant impact on the public sector as the NRF is intended to streamline how certain environmental impacts are considered through the planning system. The primary administrative functions will fall to Natural England and costs will be recoverable through the levy itself. Additional resource required within government for the ongoing implementation and operation of the NRF is expected to be minimal and this work will continue alongside other business as usual functions.

### 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The legislation will be subject to ongoing review to ensure it is operating as intended.

10.2 The instrument does not include a statutory review clause. Section 28 of the Small Business, Enterprise and Employment Act 2015 does not apply to provision in connection with the imposition of a tax, duty, levy or other charge, by virtue of section 28(3) of that Act.

## 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 The Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government has made the following statement regarding Human Rights:
"In my view the provisions of the Nature Restoration Levy Regulations 2026 are compatible with the Convention rights."

### 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").