

## ENVIRONMENT BILL

### Supplementary Delegated Powers Memorandum from the Department for the Environment, Food and Rural Affairs

#### Introduction

This Memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“the Department”) to assist with scrutiny of the Environment Bill (“the Bill”). This Memorandum describes provisions in the Bill conferring power to make subordinate legislation and other delegated powers which have been tabled for consideration at Lords Committee stage. The Memorandum supplements the Delegated Powers Memorandum on the Bill as introduced to the House of Lords.

#### **NC “Environmental targets: species abundance” (after Clause 2): A requirement for the Secretary of State to set a target relating to the abundance of species**

*Power conferred on: Secretary of State*

*Power exercised by: Regulations made by Statutory Instrument*

*Parliamentary Procedure: Affirmative Resolution Procedure*

#### Context and purpose

New Clause “Environmental targets: species abundance” would require the Secretary of State to set by regulations a target in respect of a matter relating to the abundance of species. The date for achieving the target must be 31 December 2030.

The target will be set in regulations. These will set out the standard the target must achieve and how the target is to be measured. Before making the regulations, the Secretary of State must be satisfied that meeting the target (or amended target) would further the objective of halting a decline in the abundance of species.

The target will be subject to the same substantive and procedural requirements as the long-term targets set under clause 1 of the Bill. The target must specify the standard to be achieved, which must be capable of being objectively measured. The target must also specify the date by which it must be achieved in this case 31 December 2030. The target must specify a reporting date, being the date by which the Secretary of State must prepare a statement confirming whether the target has been achieved. The Secretary of State will also be under a duty to ensure that the target is met.

#### Justification for taking the power

The Department’s view is that, as for the long-term targets set under Clause 1 of the Bill, the details associated with the target, including the metric for measuring the target, are more appropriate for secondary legislation. Key aspects of technical detail, such as the means of measurement and the relevant methodologies, will be based upon the best available technical and scientific knowledge, including independent expert advice and engagement with stakeholders.

The power is circumscribed, in the same manner as the power to set long-term targets in clause 1. Before making regulations, the Secretary of State must seek advice from independent experts and must be satisfied that the target (or amended target) can be met. The Secretary of State must follow the procedure in clause 3 prior to making regulations which revoke or lower the target, as is the case for other targets in the Bill. In particular, the target can only be amended if the Secretary of State is satisfied that meeting the target would (i) have no significant benefit or (ii) result in a disproportionate impact, and publish, and lay before Parliament, a statement to that effect.

#### Justification for the procedure

The Department's view is that setting or amending a target for species abundance is likely to be of particular interest to Parliament and therefore the Department has proposed that the regulations be subject to the affirmative procedure.

The Department is also of the view that amending the target in a way which were to lower the ambition of that target is likely to be of great interest to Parliament. Therefore, such an amendment to the target will be subject to the procedure set out in clause 3, which ensures that a full explanation for any such change is published and provided to Parliament for consideration before any such amendment is made.