

The Environment Bill

Department for Environment, Food and Rural Affairs

RPC rating: **fit for purpose**

The RPC reviews, and comments on, impact assessments (IA) supporting all regulatory proposals but recognises that Departments may have differing levels of detail of impacts of enabling and enacting powers given the different level of specificity that they may provide. These are explained in the [RPC's case histories document on the assessment and scoring of primary legislation measures](#).

The Environment Bill contains both enacting and enabling powers. In relation to enabling powers, the Department does not specify in detail the impact of those measures that will be enacted in secondary legislation. The RPC is content that the assessment of these measures is proportionate at this stage. In the Annex to this opinion, the RPC notes a number of measures which would benefit from further discussions with the RPC prior to enactment in secondary legislation. In particular, the RPC expects the Department to submit for independent scrutiny more-detailed IAs for any measure above the *de minimis* threshold¹ at the secondary legislation stage.

To the extent that the Bill contains enacting powers, the RPC is content that the Department has demonstrated that the measures enacted directly through the Bill are either non-regulatory, fall below the *de minimis* threshold, or are statutorily excluded for other reasons under the Better Regulation Framework. The one exception to this is the Department's Biodiversity Net Gain proposal.

Description of proposal

The Environment Bill aims to establish a new framework for environmental governance and to meet the ambitions of the Government's 25-year environment plan. Environmental governance is currently provided by the European Union (EU). Without the Bill, there would be a gap in governance when the UK leaves the EU.

As well as replacing the EU environmental governance framework, the Government has put forward a series of measures designed to improve air quality, the natural

¹ The *de minimis* threshold stands at ±£5 million Equivalent Annual Net Direct Cost to Business (EANDCB). If the direct impacts on business are greater than this threshold then the legislation is subject to the [Better Regulation Framework](#) and may need independent scrutiny.

environment, efficiencies in waste and resource management, and water management.

The Bill contains a number of enabling and enacting powers. The Department explains the impacts expected to arise from these powers, but states that there is much less certainty around how enabling powers will be used. As the Department has only quantified the impacts of the enacting powers at this stage, all subsequent quantification discussed in this opinion relates to measures enacted by this Bill. These measures will be assessed further at the secondary legislation stage.

In addition to the IA, the Department has submitted a statement of impacts for each proposed measure. Lists of the enacting powers and enabling powers are set out below (the numbering corresponds to the statements of impacts as they are referred to in the Annex to this opinion and in the IA).

Enacting powers

1. Office for Environmental Protection
2. Environmental principles
10. S108 enforcement powers in England and Wales
11. Vehicle seizures in England and Wales
20. Consistent municipal waste collections
22. Amendments to the Clean Air Act (CAA)
23. Amendments to the Clean Air Act for Wales
24. Amendments to the Environment Act
29. Statutory drainage and wastewater management plans (DWMPs)
30. Water resources management plans (WRMPs)
31. Strengthening Ofwat licence condition modification powers
32. Electronic service of documents under Water Industry Act 1991
33. Ofwat information gathering power
37. Biodiversity net gain and local nature recovery strategies ([RPC opined on the relevant IA on 6 June 2019](#))
38. Amendment or replacement of section 40 of the Natural Environment and Rural Communities Act 2006 (NERC): duty on public bodies to have regard to the purpose of conserving biodiversity
39. Conservation covenants
40. Local authority duty to consult on felling street trees
41. Forestry enforcement

Enabling Powers

4. Legally binding targets for Environmental Improvement
5. Waste charging powers reform in England, Wales and Northern Ireland
6. S57 and Art. 27 Emergency (modernising) powers to direct collection of waste in England, Wales and Northern Ireland
7. Waste exemptions
8. Fining powers in England and Wales for environmental offenses
9. Waste-tracking powers in England, Wales Scotland and Northern Ireland
12. Extended producer responsibility – scheme regulator
13. Extended producer responsibility – full net cost recovery and modulated producer/deposit fees
14. Improved enforcement against littering and related offences
15. Power to set a deposit of names products as part of a deposit return scheme
16. Eco-design: mandatory material efficiency standards
17. Powers to mandate consumer information and ecolabelling
18. Extended producer responsibility scheme administrator
19. Powers to reduce business food waste
21. Extended charge for single use plastic items
25. Set a target in respect of the annual mean level of fine particulate matter (PM2.5) in ambient air
26. Environment recall of motor vehicles
27. Increasing the circumstances in which the Environment Agency (EA) can vary or revoke an abstraction licence without being liable to pay compensation: environmental damage
28. Increasing the circumstances in which the EA can vary or revoke an abstraction licence without being liable to pay compensation: under used
34. Power to update the Water Framework Directive's list of priority substances and environmental quality standards for surface and ground waters
35. Power to transfer functions within The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004
36. Valuation calculation for internal drainage boards (IDBs)
42. REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Amendments

Additional statement of impacts submitted: UK Environmental Protections. (see last entry of Annex)

Impacts of proposal

The Department has not quantified the net present value of the impacts arising from the Bill because many of the costs and benefits will arise from measures to be included in secondary legislation.

The Department estimates that there will be total annualised costs of £220.7 million from measures enacted through the Bill in this primary legislation. Most of these costs are annualised costs to business of £196.6 million due to the Biodiversity Net Gain measure. The remainder of the annualised costs relate to other enacted measures. £23.8 million of the costs that are not represented by Biodiversity Net Gain measure will fall on Government. The cost of setting up the Office for Environmental Protection has not been quantified.

The Department has estimated annualised environmental benefits of £1,374 million arising from the Biodiversity Net Gain and the local nature recovery strategies measures. At this stage the Department has been unable to monetise any of the other benefits resulting from the Bill. Unmonetised benefits include the benefits to environment and society from reduced greenhouse gas emissions and reducing pressures on the water environment, etc.

Quality of submission

The Department's assessment of the overall impacts of the proposals, including the impacts on business, is fit for purpose, taking into account the limitations noted by the Department on currently available data, the uncertainties surrounding the detail of secondary legislation, and the Department's commitment to provide further IAs. The Annex to this opinion sets out the RPC's specific comments on the quality of each statement of impacts submitted to us in relation to the enabling and enacting measures in the Bill. The IA sets out clearly the rationale for the proposals and uses a proportionate level of evidence to support its estimates of the impacts. The Department has provided indicative costs and benefits for the enabled measures and an assessment of the overall policy (although many impacts, particularly those expected to arise from secondary legislation, are not quantified). The RPC considers the level of analysis is proportionate because there is uncertainty over the detail of the secondary legislation. However, the IA could be improved by providing a range of estimates for all the impacts of measures. For many of the measures proposed, businesses and other bodies will incur familiarisation costs. The IA and statements of impacts would benefit from consideration and, where possible, monetisation of these impacts.

Given that the Department has been unable to monetise the majority of both the costs and benefits from measures being enabled in this Bill, the Department could have improved the IA by including further explanation regarding the expected cost to benefit ratio.

The Department stated that further IAs will be produced as appropriate in respect of the related secondary legislation. The RPC expects to see much more detailed qualitative and quantitative cost-benefit analyses in the IAs accompanying the relevant secondary legislation enabled by the Bill. The RPC would welcome discussions with the Department prior to secondary legislation regarding comments made in the Annex on the quality of the statements of impacts.

The IA does provide an assessment of the impacts of the Government's environmental policy as a whole, even though the details of measures to be implemented at the secondary legislation stage are subject to revision and are not, therefore, certain at this stage. The assessment is comprehensive, with the inclusion, where possible, of impacts despite considerable uncertainty, for which the Department is commended. However, the Department has not aggregated the costs and benefits of these impacts to calculate the full costs and benefits of likely enabled measures. While the RPC considers this approach to be acceptable in this case, the IA would be improved by providing an indication of the scale of the overall impacts on business and civil society organisations. The Department could also draw on the literature of the EU Better Regulation Toolbox in order to monetise environmental and societal benefits.

The Department has provided a high-level Small and Micro Business Assessment (SaMBA) which the RPC considers sufficient at this stage. The RPC expects the Department to significantly expand its analysis of the impacts on small and micro businesses in its IAs for any measures enabled by the Bill and enacted in secondary legislation.

Other comments

The evidence base in the IA is well set out. The RPC commends the Department for clearly linking its analysis of identified market failures to the sustainable development goals to support the rationale for intervention in this policy area.

The IA states that part of the rationale for the Government intervening is to tackle asymmetric, or incomplete, information. While the Department explains why government intervention is required to correct this failure, and how the measures will go towards correcting it, the IA could be improved through further detail of why the Department believes there is asymmetric or incomplete information in this case.

The Department has carried out public consultations on many of the measures included in the Bill. The IA listed the areas consulted upon, but it would benefit from further description of the feedback received during those consultations.

Departmental assessment

Classification	Qualifying Regulatory Provision
Equivalent annual net cost to business (EANDCB)	Unquantified
Business net present value	Unquantified
Overall net present value	Unquantified

RPC assessment

Classification	Under the framework rules for the 2017-19 parliament: Qualifying Regulatory Provision. To be determined once the framework rules for the current parliament are set.
EANDCB – RPC validated	Further IA(s) to be submitted on various elements at the secondary legislation stage for validation of EANDCB figure(s)
Small and micro business assessment	Sufficient at this stage
RPC rating	Fit for purpose

Regulatory Policy Committee

Annex: RPC opinion on the Quality of Statements of Impacts for enacted and enabled measures

Measure	Description of Measure	Department's Assessment of the Impact	RPC opinion on Quality of relevant Statement of Impact
Governance			
1. Office of Environmental Protection (Enacting)	The establishment of a new body – proposed to be called the Office for Environmental Protection (OEP) - will provide independent assurance of government's delivery of environmental law and the Environmental Improvement Plans (currently known as the 25 Year Environment Plan), and impartial advice to support the development of improved measures for future application.	It is assumed that this intervention will create no direct impacts on business as the measure would be mostly relevant to government policy making and the implementation of environmental legislation by the Government and its public delivery bodies.	Missing or additional costs. It is likely that firms dealing with the OEP will face familiarisation costs in order to understand differences compared to the current EU governance structure as well as incurring ongoing administration costs in engaging with the OEP.
2. Environmental Principles (Enacting)	The environmental principles are currently enshrined in EU law and act as a basis for all EU environmental policy-making. They are being included in primary legislation in order to maintain them after EU exit.	The principles will be relevant to the act of government policy making. How the policies will apply such principles will depend on types and extent of changes in policy measures. At this stage no direct business impacts are assumed.	

<p>3. Environmental Improvement Plans (N/A)</p>	<p>DEFRA is seeking to introduce duties on the government to: 1) prepare and review (at least every five years) a plan for significantly improving the environment, 2) report annually to Parliament on progress, and 3) develop and publish a suite of indicators and metrics to measure environmental change to help measure long-term progress.</p>	<p>There are no impacts on business or regulatory burdens to consider as the proposed duties fall entirely on government and are the formalisation of existing government policy.</p>	
<p>4. Legally binding targets for Environmental Protection (Enabling)</p>	<p>The Bill gives the 25 Year Environment Plan statutory status and introduces a power for the Secretary of State to set environmental targets in secondary legislation.</p>	<p>The intervention will create no impact/burdens to business as the proposed duties fall entirely on government, it is therefore expected that there will be no additional impact to businesses until secondary legislation is introduced at a later stage.</p>	<p>The RPC notes that the Department has assessed this measure as <i>de minimis</i> and therefore qualifies for a De Minimis Assessment (DMA). The RPC would welcome ongoing engagement with the Department to confirm the position prior to environmental targets being enacted in secondary legislation.</p>
<p>Waste</p>			
<p>5. Waste charging powers reform in England, Wales and</p>	<p>Waste charging powers are designed to achieve partial cost recovery and provide the EA, National Resource Wales (NRW)</p>	<p>This gives the government powers to reform charging powers in primary legislation. In acquiring these powers via</p>	<p>The Departmental assessment for this measure is adequate for this stage. The RPC highlights the possibility that secondary</p>

<p>Northern Ireland (Enabling)</p>	<p>and Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland with flexible and reliable funding to tackle waste crime.</p>	<p>primary legislation, there will be no immediate direct impacts on business or society.</p>	<p>legislation relating to this measure is likely to be above <i>de minimis</i> in which case the RPC would expect to see future Impact Assessments where relevant. The RPC would welcome further engagement with the Department on this area.</p>
<p>6. S57 and Art. 27 Emergency (modernising) powers to direct collection of waste in England, Wales and Northern Ireland (Enabling)</p>	<p>S57 and ART. 27 will be updated to give the Secretary of State (SoS), Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland power to direct a waste carrier to collect waste from a specified place and take it to a specified waste site.</p>	<p>This measure is to for the Government to acquire the powers to reform emergency powers in primary legislation. In acquiring these powers there will be no impact on businesses.</p>	<p>The Department considers this measure to be <i>de minimis</i>. While the Department would need to provide more evidence to demonstrate this, the RPC notes that the measure would fall under the civil emergencies' exemption.</p>
<p>7. Waste exemptions (Enabling)</p>	<p>This measure gives the EA and NRW the ability to keep under review and amend the conditions, rules and thresholds under which a waste operation can be regulated by a registered exemption, rather than by permits.</p>	<p>This intervention relates only to the acquisition of powers by Government, and therefore creates no direct impacts on business.</p>	<p>The Departmental assessment for this measure is adequate for this stage. The RPC highlights the possibility that secondary legislation relating to this measure is likely to be above <i>de minimis</i> in which case the RPC would expect to see future IAs where relevant. The RPC would therefore welcome further engagement with the Department on this area.</p>

<p>8. Fining powers in England and Wales for environmental offenses (Enabling)</p>	<p>The creation of a regulation providing power in England and Wales to update Fixed Penalty Notice amounts via secondary legislation, including the power to reduce the fine for early payments and to update the circumstances in which that lesser amount can be offered.</p>	<p>This intervention relates only to the acquisition of powers by Government, and therefore creates no direct impacts on business.</p>	<p>Whilst secondary legislation relating to this measure may lead to direct impacts on businesses, the RPC notes the Department's assessment that any direct impacts are unlikely to affect legitimate businesses.</p>
<p>9. Waste tracking powers in England, Wales Scotland and Northern Ireland (Enabling)</p>	<p>To enable an electronic waste tracking system so all waste movements can be easily recorded, checked, and tracked through the waste management chain.</p>	<p>This intervention relates only to the acquisition of powers by Government, and therefore creates no direct impacts on business.</p>	<p>The Departmental assessment for this measure is adequate for this stage. The RPC highlights the probability that secondary legislation relating to this measure will be above <i>de minimis</i> in which case the RPC would expect to see future IAs relating to this measure. The RPC would welcome further engagement with the Department on this area.</p>
<p>10. S108 enforcement powers in England and Wales (Enacting)</p>	<p>This measure: 1) removes the requirement for the enforcing authorities to provide 7 days' notice when entering residential premises (s108(6)(a)) where a court warrant has been issued;</p>	<p>The Department has not quantified the impacts to businesses of this measure. The Department notes Small and Micro businesses are likely to be disproportionately affected as larger businesses</p>	<p>While the assessment would be enhanced by quantification of the costs to businesses, particularly Small and Micro Businesses (SMBs) from this measure, the RPC considers the assessment to be adequate considering the</p>

	<p>2) amends the powers of entry to enable the enforcing authorities to specifically “search” for and where necessary “seize” and remove material evidence (s108(4)(k)); and</p> <p>3) amends the powers of entry so an enforcement officer, whilst still required to show their authorisation if so required, is nevertheless able to enter abandoned or unoccupied premises when they have the authorisation to do so.</p>	<p>are unlikely to be operating from residential property. Given the direct impacts will fall on illegitimate businesses there would be low/negligible impacts on legitimate businesses.</p>	<p>majority of those costs are unlikely to fall on legitimate businesses.</p>
<p>11. Vehicle Seizures in England and Wales (Enacting)</p>	<p>This changes section 5(6) of CoP(A)A and 34B(6) of Environment Protection Act 1990 to allow for a constable without an EA/NRW officer present, to seize vehicles on behalf of the EA/NRW.</p>	<p>The proposed modifications are aimed at dealing with the increasing criminal activity in the waste sector, they are unlikely to impact legitimate business in a negative manner and aim to make it easier for enforcing authorities to directly tackle illegal operators.</p>	<p>The RPC considers the assessment to be adequate considering any costs are unlikely to fall on legitimate businesses.</p>

<p>12. Extended Producer Responsibility – Scheme Regulator (Enabling)</p>	<p>This stipulates that designated regulatory bodies may take specific enforcement action to ensure full compliance with the regulations, and to ensure that these costs can be recovered from producers.</p>	<p>This intervention relates only to the acquisition of powers by Government, and therefore creates no direct impacts on business.</p>	<p>The RPC considers the assessment to be adequate at this stage. The Department has highlighted that if the powers are utilised through secondary legislation that this may prove contentious to obligated businesses. The RPC would welcome further engagement with the Department on this measure during the secondary legislation process.</p>
<p>13. Extended Producer Responsibility (EPR) – Full net cost recovery and modulated producer/deposit fees (Enabling)</p>	<p>Full Net Cost Recovery (FNCR) requires producers to pay for the recycling and waste management costs of their products through modulated fees and deposit fees. This measure grants the power to levy a deposit fee periodically from obligated producers under an EPR scheme and set deposit levels periodically for each type of recyclable product/format/material as required.</p>	<p>This intervention relates only to the acquisition of powers for the Secretary of State and devolved ministers to charge businesses for the FNCR of their products when they become waste under an EPR scheme.</p>	<p>The RPC considers the assessment to be adequate at this stage. The Department has engaged with the RPC on this measure and we welcome a forthcoming secondary IA following this IA.</p>
<p>14. Improved enforcement against</p>	<p>This involves two related powers:</p>	<p>The Department expects the second power to have no</p>	<p>The Department notes that there is no expected direct impact on</p>

littering and related offences (Enabling)	<p>1) Power for the Secretary of State/ Welsh Ministers to prescribe conditions to be satisfied by any person before they may be authorised by a litter authority to carry out these enforcement functions.</p> <p>2) Power for the Secretary of State/ Welsh Ministers to issue statutory guidance on the use of litter authorities enforcement powers, to which litter authorities must have regard when exercising their powers.</p>	direct impact on business but that it will have wider impacts on litter authorities and the environment. This power will not require further secondary legislation to implement.	businesses. Whilst the IA provides a detailed discussion of the potential impacts of the second power, the IA could benefit from providing the same level of analysis on the first power.
15. Power to set a deposit of named products as part of a Deposit Return Scheme (Enabling)	This enabling legislation will include the powers to appoint both a scheme administrator and a scheme regulator for any deposit return scheme that is set up. In practice, these functions may be achieved by the same body, however this is not specified at this stage of legislation.	This intervention relates only to the acquisition of powers by Government, and therefore creates no direct impacts on business.	The RPC recognises that the Department will be expected to provide further IAs at the secondary legislation stage. The RPC would welcome further engagement with the Department on this area.
16 Eco-Design: Mandatory material	This allows the Secretary of State to (i) have powers to set product	At this stage this measure has no direct impacts on	The Department notes that there may be associated design costs

efficiency standards (Enabling)	standards as to resource efficiency of non-energy related products (ii) have powers to restrict what is placed on the market to ensure it complies with those product standards. These requirements will be enforced by a market surveillance authority, appointed by the Secretary of State.	businesses as it only deals with the Government acquiring powers.	to business, and therefore the RPC would expect to see a more detailed assessment of this at secondary stage. The RPC would welcome further engagement with the Department on this area.
17. Powers to mandate consumer information and ecolabelling (Enabling)	This measure grants the Government powers to mandate consumer labelling with the intention of incentivising a shift in producers and consumers' behaviour towards more sustainable production and durable, repairable and recyclable products. Labelling could also provide important information on how to dispose of packaging and products more appropriately.	Because this measure relates only to the Government acquiring these powers, it will not have any immediate impacts on businesses.	The RPC would expect to see more detailed cost analysis in secondary stage IAs. At this stage, it is noted that such secondary measures may fall below the <i>de minimis</i> threshold for RPC scrutiny. The RPC would welcome further engagement with the Department on this area.
18. Extended Producer Responsibility Scheme Administrator (Enabling)	The Department is seeking powers so that the Secretary of State or devolved ministers may designate or establish, by secondary legislation, a scheme	The impacts on business will depend on the nature of the scheme administrator(s) that is designed and options chosen. Under this measure	The Department acknowledges the possibility that establishment of EPR schemes may result in reporting and compliance costs on businesses, provided the

	administrator to oversee and/or run an EPR scheme. The Bill should allow the governance arrangements of any scheme administrator to be decided through secondary legislation and should allow the scheme administrator to be a private or public organisation.	the Government is acquiring powers in the primary legislation, so it will not have any immediate impacts on businesses at present.	secondary legislation requires the participation of small businesses. The RPC would expect these costs to be further detailed in specific IAs. The RPC would therefore welcome further engagement with the Department on this area.
19. Powers to reduce business food waste (Enabling)	New powers for the Secretary of State and Scottish and Welsh Ministers and the Department for Agriculture, Environment and Rural Affairs in Northern Ireland to mandate on food waste targets and an obligation to redistribute surplus.	Because this measure relates only to Government acquiring these powers, it will not have any immediate impacts on business.	The RPC would expect to see the secondary stage IAs relating to this measure. Nonetheless, the RPC welcomes the Department's steer on expected future impacts.
20. Consistent municipal waste collections (Enacting)	This measure will require consistent municipal waste collection.	Whilst the duties to ensure consistent municipal waste collection will arise from the primary legislation, measures for implementation will be set out in secondary legislation, which may have direct impacts on businesses.	Whilst the current assessment for this measure is sufficient, the RPC would expect to see more detail on this power set out in secondary legislation. The RPC would welcome further engagement with the Department on this area.

<p>21. Extended charge for single use plastic items (Enabling)</p>	<p>The measure seeks to extend powers beyond those in Section 77 of the Climate Change Act 2008 in order to add additional products to a list of single-use plastic items where a separate charge could be imposed.</p>	<p>Because the measure relates only to the Government acquiring these powers, it will not have any immediate impacts on businesses.</p>	<p>The Departmental assessment for this measure is adequate for this stage. The RPC notes that the Department would be expected to produce IAs at secondary stage, which the RPC would expect to see where relevant and therefore would welcome further engagement with the Department on this area.</p>
<p>Air Quality</p>			
<p>22. Amendments to the Clean Air Act (Enacting)</p>	<p>This amendment aims to make the existing legislation more effective to protect the public from the damage caused by exposure to PM2.5 and to help meet its emission reduction commitment.</p>	<p>The IA estimates no costs to businesses which are already burning appropriate fuels. Businesses currently emitting smoke by burning unauthorised fuels are already committing an offence under current legislation and proposed changes would not increase costs for those businesses.</p>	<p>Assumptions (changes 1 and 2) The Department should justify or explain why it believes the changes would result in 25% more work for enforcement officers. The IA could also explain to what extent the Department believe the total costs to local authorities are likely to be an overestimate or underestimate by applying some sensitivity analysis. Clarification/justification of assumptions. The secondary legislation will need to provide a clearer explanation and justification of how and why the</p>

			<p>Department believes the measures proposed will not impact businesses.</p> <p>Missing or additional costs (change 3). The Department should explain why it expects familiarisation costs to retailers of controlled fossil fuels to be very small. The Department might expand (and providing more detail) on how it envisages retailers familiarising themselves with the changes to the current legislation.</p> <p>The IA (paragraph 29) also mentions a need to install signs in-store or online. The cost of this measure to be business should be estimated at secondary legislation stage.</p>
<p>23. Amendments to the Clean Air Act for Wales (Enacting)</p>	<p>The proposed intervention is to remove the requirement for approved fuels and exempted fireplaces to be listed in statutory instruments and amend the CAA to give Welsh Ministers power to</p>	<p>There is no impact on costs to businesses from having appliances tested – this process will not change. Only the frequency with which the list of approved products are published will change.</p>	<p>Missing monetisation of benefits. The Department states that they have been unable to monetise the benefits arising from reducing the delay between obtaining a recommendation from the existing contracted technical</p>

	<p>publish the list of products administratively.</p>	<p>Suggested costs for setting this up online are estimated to be less than £5,000, if the contractor for the rest of the UK is used, or between £50,000 and £60,000, if a separate list is procured just for Wales.</p> <p>Businesses will benefit from reduced delay between obtaining a recommendation from the existing contracted technical experts and inclusion of the products in 12 monthly Orders and Regulations. Societal benefits arise through allowing new products to enter the market more quickly.</p>	<p>experts and the inclusion of the products in 12 monthly Orders and Regulations. However, the RPC suggests that given the policy is already being adopted by the rest of the UK, evidence from the experiences there could be utilised to identify the scale of these benefits.</p> <p>SaMBA. The Department acknowledges when discussing the impacts on page 4 of the Statement of Impacts that “new products may provide a different service that may be more highly valued by consumers”. This statement appears to suggest that there is scope for adverse effects on SMBs, who may be unable to compete on certain quality preferences. The Department should consider the impact this potential risk may have on SMBs and include a discussion of the effects of the measure in general on SMBs in the IA.</p>
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<p>24. Amendments to the Environment Act (Enacting)</p>	<p>The policy aims to make changes to the Local Air Quality Management (LAQM) framework to enable and drive more effective action at a local level. The SoS will be given the power to designate, subject to consultation, such authorities as are appropriate, through subsequent secondary legislation.</p>	<p>There will be new burdens on district councils arising from the administrative and collaborative work they must undertake as a result of the proposed changes to the LAQM framework. The Department estimates the aggregate cost of this measure at approximately £4.6 million per year for all local authorities.</p>	<p>Clarity. The Department could make it clearer how each objective is proposed to be achieved throughout the IA, as it does in paragraphs 13 and 14. More generally, the proposals in the IA could be set out in a clearer way for the reader.</p> <p>Assumptions. The Department should justify or explain why it believes the changes would result in 16 weeks of work for enforcement officers. The IA could also explain to what extent the Department believe the total costs to local authorities are likely to be an overestimate or underestimate by applying some sensitivity analysis.</p> <p>Business impacts. The Department does not mention whether this measure could impact businesses. The Department should explicitly address whether this measure does or does not impact businesses and support this by</p>
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			<p>providing a clear narrative of why this is the case.</p>
<p>25. For the Secretary of State to set a target in respect of the annual mean level of fine particulate matter (PM2.5) in ambient air (Enabling)</p>	<p>The Bill sets out a duty on the Secretary of State, to set a target in respect of the annual mean level of fine particulate matter (PM2.5).</p>	<p>Costs to business and households will depend on factors such as: the level of PM2.5 set as the target; the deadline for meeting targets; the measures selected to achieve the target(s); innovation; and interaction of air quality with other government actions (e.g. relating to climate change).</p>	<p>Options. The Department should compare different levels of PM2.5 in the IA's option appraisal and assess the impact of each option. The Department also alludes to possible differences in targets depending on geographical location. The Department will need to provide full details of the proposed measures at secondary legislation stage.</p> <p>Costs. At secondary stage, the Department should quantify any business impacts, despite the fact the IA states that business impacts could be mitigated by technological innovation. The Department could also provide further detail on the potential innovation benefits. The RPC would welcome further engagement with the Department on this area.</p>
<p>Vehicles</p>			

<p>26. Environment recall of motor vehicles (Enabling)</p>	<p>The measure would enable the Government to compel manufacturers of vehicles and Non-Road Mobile Machinery (NRMM) to recall their products for reasons of environmental failure or non-conformity. The Government will also be able to require the manufacturer to achieve a minimum recall level to ensure that the manufacturer fully complies with the recall requirement and that high completion rates are achieved. The level of the minimum rate will be subject to public consultation and set out in secondary legislation.</p>	<p>These powers will not have any immediate business impacts. Additional costs to the manufacturer would only occur if a manufacturer did not take sufficient action in relation to an identified defect, resulting in the Government requiring a recall and setting a recall target.</p>	<p>Assumptions/Costs. The IA states that manufacturers would face additional costs only if they do not take sufficient action in relation to an identified defect, causing the Government to use powers to require them to do so and provide a recall target. The Department expect the likelihood of this power being used is low because the equivalent existing power for vehicle safety issues has not been used to date. The IA should further explain why the Department believes the two powers to be equivalent. The IA should also address whether businesses may incur any other additional costs, e.g. familiarisation costs. Trade. The secondary stage IA should also include a discussion on trade impacts.</p>
<p>Water</p>			

<p>27. Increasing the circumstances in which the EA can vary or revoke an abstraction licence without being liable to pay compensation: environmental damage (Enabling)</p>	<p>The proposal is to replace the term ‘serious damage’ in the Water Act 2003, by defining a new criterion in primary legislation for what constitutes environmental damage, when there is no compensation payable.</p>	<p>The measure will have a zero-net cost to business as any impact would be deemed as a transfer.</p>	<p>The proposed changes aim to improve enforcement of the legislation currently in place. The RPC considers the assessment to be adequate considering any costs will not fall on legitimate businesses.</p>
<p>28. Increasing the circumstances in which the EA can vary or revoke an abstraction licence without being liable to pay compensation: under used (Enabling)</p>	<p>The proposed measure would allow the EA to vary licences to remove unused volumes without being liable for compensation. Effectively, this would allow the Government to monitor water abstraction licences more effectively.</p>	<p>The measure will have a zero-net cost to business as any impact would be deemed as a transfer.</p>	<p>The proposed changes aim to improve enforcement of the legislation currently in place. The RPC considers the assessment to be adequate considering any costs will not fall on legitimate businesses.</p>
<p>29. Statutory Drainage and Wastewater Management Plans (DWMPs) (Enacting)</p>	<p>The main policy option under consideration is to make DWMPs a statutory obligation from the beginning of 2023.</p>	<p>The measure will impose direct costs to businesses. There will be costs to water and sewerage companies (WaSCs) and costs to other drainage owners required to provide information to WaSCs.</p>	<p>The RPC considers the assessment to be adequate at this stage. The RPC highlights the possibility that secondary legislation relating to this measure may be above <i>de minimis</i> in which case the RPC would expect to see future IAs where relevant. The RPC would welcome further</p>

			engagement with the Department on this area. Costs. The assessment would be enhanced by a more thorough quantification of the costs to businesses, particularly SMBs, arising from this measure.
30. Water Resources Management Plans (WRMPs) (Enacting)	The proposed legislation will allow the SoS or Welsh Ministers to intervene if they consider it necessary for water companies to prepare a regional plan (or inter-regional) to consider water resources options and/or for water companies to take account of the resulting regional plan in their WRMPs.	The direct cost to each business for planning will initially be around £250,000 (estimated based on Water Resources in the South East's existing costs) and the aggregate cost to the estimated 6 water companies affected by this measure, therefore, £1.5 million. These costs are expected to reduce to zero over time as companies embed regional planning into their own arrangements.	The RPC considers the assessment to be adequate at this stage. It is also noted that the impacts may not be above the <i>de minimis</i> threshold. The RPC would welcome further engagement with the Department on this area. Clarification. The Department should clarify the interaction (if any) between this measure and the DWMPs measure in Annex 29.
31. Strengthening Ofwat Licence Condition Modification Powers (Enacting)	The proposal would enable Ofwat to consult companies on proposed licence changes and the SoS would need to be notified of the licence change proposal at	The measure is not expected to impose significant direct costs to businesses.	The Department has provided a thorough assessment of the impacts of the measure. The RPC notes that the business impacts of

	least 28 days prior to consultation.		the measure are likely to be below the <i>de minimis</i> threshold.
32. Electronic Service of documents under Water Industry Act 1991 (Enacting)	This policy would enable all documents that have to be served under the Water Industry Act 1991 to be served electronically with the consent of the recipient and on the confirmation of a valid email address.	The main impact to businesses of this proposal is the cost saving associated with no longer sending and receiving documents in hard copy. It is worth noting that this is an optional policy, however, the Department have estimated that there are net benefits to businesses of taking up this proposal. This would therefore imply that both parties would opt for no longer serving documents in hard copy. The main monetised impacts of this proposal are the postage and printing costs that are saved, estimated to be £499,522 per year total cost savings to the industry (upper limit). Labour costs and time spent printing and posting are deemed negligible by the Department.	The RPC deem the analysis of impacts to be sufficient at this primary stage.

<p>33. Ofwat information gathering power (Enacting)</p>	<p>This measure would provide Ofwat with a specific, new information gathering power enabling them to request any information from water companies, in line with some other regulators, about the way in which companies are carrying out their duties and activities</p>	<p>There are currently 27 water companies (businesses) who will be affected by this proposal. Water companies are likely to incur small one-off transitional costs, to familiarise themselves with Ofwat's new power. The Department have estimated that these could be between £16,843 and £75,263 on aggregate. There may be some minor costs for water companies in aligning the data with the specific Ofwat request, but this is deemed negligible and uncertain by the Department and therefore has not been monetised. There is no anticipated disproportional impact on SMBs.</p>	<p>The Department has provided a sufficient assessment of the impacts at this stage. However, the RPC would welcome further discussion with officials to more accurately determine the costs that businesses may occur.</p>
<p>34. Power to update the Water Framework Directive's list of priority substances and environmental quality standards for surface</p>	<p>This measure will legislate to update the list of priority substances and the corresponding Environmental Quality Standards (EQS) for surface and ground waters. The</p>	<p>There will be no direct impact to business as a result of this measure. Impacts to businesses will only occur if the power is exercised and secondary legislation is used</p>	<p>The RPC deems the analysis sufficient for this stage but would expect a more detailed account of the potential changes to the list at secondary stage, as they could incur business costs. The</p>

<p>and ground waters (Enabling)</p>	<p>power will also enable monitoring and timing requirements to be defined. This will continue the existing regulatory framework for assessing the chemical quality status of our waters and ensure there is no regulatory gap once the UK leaves the EU.</p>	<p>to update the priority substances list or EQS. If a new substance is added to the list or an existing substance's EQS is lowered, it may result in the UK's environmental regulators imposing stricter discharge consents to businesses utilising that chemical. This could result in elevated costs for the business in ensuring their discharges meet the stricter EQS.</p>	<p>Department is encouraged to engage with the RPC at secondary stage to discuss this potential further.</p>
<p>35. Power to transfer functions within The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (Enabling)</p>	<p>The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004, transposes the EU Water Framework Directive into domestic legislation for the Solway Tweed cross-border river basin district (RBD). This regulation enabling power will allow the Secretary of State to transfer functions within the Solway Tweed Regulations. After a full review between the UK and</p>	<p>Changes to the management of water bodies in RBDs (under the Water Framework Directive) generally have no impact on business. Nonetheless, depending on the outcome of a future review of the current arrangements, there may be minor impacts to a small number of businesses.</p>	<p>Given that water policy is a devolved competency, any changes that affect water bodies in Scotland would fall outside the scope of RPC remit. Furthermore, the RPC notes that changes to the management of the part of the Solway Tweed RBD in England may only have minor impacts on businesses and would likely be <i>de minimis</i>.</p>

	Scottish Government, secondary legislation will reallocate functions.		
36. Valuation calculation for internal drainage boards (IDBs) (Enabling)	IDBs have the necessary powers to raise and apply funds and conduct works. This measure aims to amend the 1991 Land Drainage Act to enable the creation, via Statutory Instrument, of an alternative valuation calculation for the value of land enabling IDBs, subject to local support, to review their current charging schemes and to enable government to create new IDBs and/or expand existing ones.	Where there is an existing IDB the Department does not anticipate a change to costs and benefits received. Where a new IDB is proposed or where an existing IDB proposes to expand its boundary there will be new costs and benefits for the affected local authorities and agricultural landowners. Nonetheless, the costs to businesses will be <i>de minimis</i> even in the worst-case scenario.	The proposal is not a regulatory provision because it does not regulate business activities. It only updates the levies IDBs raise to better reflect the relative changes in the value of land and urban properties in the last 30 years. However, it is unclear if new IDBs are created or existing ones are expanded whether this would constitute new regulatory activity and the RPC recommends further discussions with officials.
Nature			
37. Biodiversity net gain and local nature recovery strategies (Enacting)	This policy mandates biodiversity net gain through the use of a specified biodiversity metric to development in scope of the Town and Country Planning Act 1990	The Department estimated a direct cost of £199.0m per year (2017 prices) for developers to deliver on and off-site habitat creation. In addition, it estimated familiarisation costs to	The RPC opined that the IA on Biodiversity Net Gain was fit for purpose.

		<p>developers to be £6.3m in the first year only.</p> <p>Local government and central government costs include: familiarisation, training, monitoring and enforcement costs of policy delivery. Ongoing costs to local government are £9.5m per year, of which includes transition costs of £4.8m per year for the first 2 years. For central government, the estimated ongoing costs are £1.8m for Natural England, and £1.3m for Defra with one-off capital costs of £0.5m.</p> <p>The Department describes benefits of habitat creation and avoided habitat loss. Benefits of avoided habitat loss are estimated to be £11.4bn over 10 years while benefits of habitat creation are likely to fall outside the</p>	
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		10-year appraisal period and so are not monetized.	
<p>38. Amendment or replacement of section 40 of the Natural Environment and Rural Communities Act 2006 (NERC): duty on public bodies to have regard to the purpose of conserving biodiversity (Enacting)</p>	<p>This policy aims to introduce new reporting report requirements to designated public authorities and strengthen wording of the duty.</p>	<p>There will be no direct impacts on businesses. The burden is placed instead on the 500 public bodies and 152 upper-tier local authorities required to report on actions taken in adherence to the duty.</p>	<p>Additional Costs. The Department acknowledge additional costs and should clarify which public bodies/local authorities are likely to incur these additional costs, particularly given the large number of bodies in scope. The Department also recognises that the reporting requirement in Scotland is a substantially greater burden than the requirement is being proposing in England. It would have been useful in this IA to provide known costs for the Scottish government on reporting requirements and consider any lessons learnt or unintended consequences for this measure. Assumptions. The Department assumes that public authorities can evaluate the suitability of a wide range of measures of varying cost, and balance burdens and benefits as they see fit. However, given a wide range of</p>

			costs, the Department should expand on this assumption and discuss whether local authorities would even consider the higher cost enforcement activities (page 9: “an authority may choose to take action at an additional cost.”)
39. Conservation Covenants (Enacting)	This measure plans to help leave environment in better condition by future generation through use of conservation covenants, as recommended by the Law Commission. This is a private, voluntary agreement between a landowner and a “responsible” body, such as a conservation charity, government body or a local authority. This measure embeds the legal framework enabling the implementation of conservation covenants in England.	Will have no cost to business as the use of conservation covenants would be voluntary. The Department say where landowners and organisations use them, there would only be small costs.	Clarity in SaMBA and Distributional Impact. The Department should explain why it expects this measure to have no distributional and SMBs impacts of this measure. It appears that there may not be significant impact on SMBs, given there is assumed to be little impact on businesses overall, however, the Department would benefit from making this link more explicit within the assessment. Misaligned costs and benefits. The Department presents additional costs pertaining to the 21 additional projects estimated to arise following the policy inception. However, the monetised benefits are only

			<p>directly applicable to those projects “facilitating compensation for biodiversity loss in the planning context” (Page 6 of the Statement of Impacts). Therefore, the monetised benefits only relate to 1 of the 21 additional estimated projects and therefore do not adequately represent the scale of the benefits from the policy. The IA would benefit from making this clearer and, if possible, providing a more detailed account of the benefits arising from the other 20 projects or at least why these were not quantifiable.</p>
<p>40. Local Authority Duty to Consult on felling street trees (Enacting)</p>	<p>The policy wants to introduce a duty on local authorities to consult (to a certain standard) with local communities when a street tree is due to be felled</p>	<p>Costs fall entirely on central government, and therefore the Department assumes there will be no distributional impacts for local authorities. There are no business impacts.</p>	<p>Clarity and references of Options. On page 2 of the IA, the Department state the “Option 1.4” is the preferred option. However, the relevant section does not contain an “Option 1.4”. The Department would benefit from ensuring that references are clear and consistent throughout the document. Furthermore, various other options are outlined in Table</p>

			<p>1, but these are not discussed in the IA. The Department should provide its assessment of these other options to the RPC so that they can be assessed, particularly given the preferred option (1.4) is not explained. Therefore, the RPC would welcome further engagement with the Department on this area.</p> <p>Monetised and non-monetised impacts. The IA outlines the annual and total costs to local authorities under the various duty to consult options. However, there is no reference to this table in the body of the IA and therefore these costs have not been discussed in any detail, nor with context or their assumptions outlined. As such, the evidence supporting these monetised costs are not clear. Furthermore, the IA provides no reasoning why other costs were not monetised, nor why it was not possible to monetise the benefits.</p>
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<p>41. Forestry Enforcement (Enacting)</p>	<p>This policy aims to change current penalties for existing offences related to illegal felling to provide a greater deterrent; resolve a number of loopholes with regards to Restocking and Enforcement Notices and where and on whom they can be served; and improve the ability for the Forestry Commission to gain access to information of who has an interest (ownership/leasehold etc.) in the land.</p>	<p>No business impacts from most of the measures. Additional costs to business could occur as part of “providing powers to compel owner to tell Forestry Commission who has an interest in land” - where a measure resulting from the power imposes a new regulatory burden to business.</p>	<p>Assumptions. The IA states the Forestry Commission anticipate that this request would be used in approximately 15% of credible cases, which estimated to be 9 cases per year. The IA would benefit from providing more information on this assumption and the underlying data about this</p>
<p>Chemicals</p>			
<p>42. REACH Amendments (Enabling)</p>	<p>The provisions being introduced in the Bill would enable articles of REACH to continue to be amended. This will provide flexibility to respond to changes in chemicals policy or regulatory needs, thus limiting the risk of institutional failure</p>	<p>There are no direct business impacts. However, the policy could result in additional costs, avoided costs, or be cost neutral to businesses, depending on the proposed amendments.</p>	<p>The RPC considers this assessment to be adequate at this stage. However, the RPC notes that any future changes to this measure could impose additional costs which have not been accounted for at this primary stage – the RPC would expect to see any future IAs in this scenario. The RPC also opined on</p>

			REACH requirements in an EU no-deal scenario in January 2019.
UK Environmental Protections (Enabling)	<p>Since the original submission of the IA the Department has submitted another Statement of Impacts on UK Environmental Protections. This measure is to help ensure that future legislation represents an increase in the level of protection provided for the environment by: (1) strengthening transparency and accountability through giving Parliament additional and specific information to enable it to better scrutinise the environmental impact of legislation brought forward by the Government, and (2) ensuring that ministers consider the environmental implications of a Bill before it is introduced.</p>	<p>There would be a small impact on government due to an increased administrative burden of producing additional statements to accompany proposed Bills.</p> <p>There is not expected to result in direct impacts on business. It will create a parliamentary process which may influence future governments' approach to environmental legislation, but the impacts of any such future changes on business would be captured in detail by any relevant IAs.</p>	<p>The RPC considers the Statement of Impacts to be proportionate as there are no direct impacts on business. However, to improve its assessment, the Department could have monetised the additional costs to government.</p>