

Post-implementation Review of Environmental Law

March 2023



Office for
**Environmental
Protection**

Post-implementation Review of Environmental Law

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The Office for Environmental Protection is a non-departmental public body, created in November 2021 under the Environment Act 2021. We protect and improve the environment by holding Government and other public authorities to account. Our work covers England and Northern Ireland. We also cover reserved matters across the UK.

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Foreword

Foreword

It is crucial for good environmental governance that there is transparent and timely evaluation of how environmental laws and policies are working in practice. The Office for Environmental Protection has a role in this regard, to independently scrutinise and report on the implementation of environmental law. We do this with a view to achieving better environmental law, better implemented.

However, our role does not negate Government's own responsibilities in evaluating the effectiveness of environmental law. In particular, Government should itself monitor and evaluate how environmental and other laws are being applied to support delivery of Government's environmental commitments and ambitions. And, whilst we would encourage this evaluation as a matter of good practice, in some cases it is a legal requirement.

Where it is legally required, post-implementation review provides a common framework for evaluating the extent to which implementation of a law has been effective. There is strength and value here, in applying a consistent, systematic, and timely approach to evaluation, and in publishing the outcome.

Post-implementation review is intended to assess whether regulations continue to serve their intended purpose and deliver against their policy objectives. This is ever more necessary for environmental law, as Government is committed to ambitious statutory targets for the environment and to leaving the environment in a better state for the next generation. Having good environmental laws that are effectively implemented is key.

The findings of post-implementation reviews are important to inform consideration of possible changes in the law or how it is implemented, and as a resource in informing policy development. By not conducting or reporting on post-implementation reviews, Government is failing to generate an important part of the evidence to support the development, and ongoing contribution, of environmental laws towards delivering environmental protection and improvement.

Completing these reviews and publishing their findings on time is a legal requirement, a requirement that Defra and other government departments have not been meeting in many instances. They have not been consistently and transparently conducting post-implementation reviews of environmental laws, and these failures appear to be widespread and longstanding.

Such information is especially relevant when Government is reviewing and making decisions about the future of environmental law. There is now the potential for significant changes to environmental law, most notably through the Retained EU Law (Revocation and Reform) Bill, but also through other draft legislation such as the Energy Bill and the Levelling-up and Regeneration Bill. This makes it all the more important that Government and others understand how well existing legal frameworks are operating to achieve environmental outcomes.

The Regulatory Policy Committee, and House of Lords Secondary Legislation Scrutiny Committee have both recently commented on the situation regarding post-implementation reviews, yet we do not see any improvement in compliance. Whilst these committees comment on post-implementation review more broadly, we have a specific role to play in improving compliance with environmental law and ensuring there is a robust legal

framework in place to protect and improve our environment. In our view, it is most important now that Government complies with the law and deals with the accumulated backlog.

Government must formally respond to this report. We would expect it to provide reassurance as to how these failures will be swiftly rectified. We will keep this matter under review.



A handwritten signature in black ink, appearing to be 'G Stacey'.

Dame Glenys Stacey
Chair, Office for Environmental Protection

Executive Summary

Executive Summary

This report concerns Government's evaluation and reporting on the implementation of environmental law. Periodically undertaking this evaluation and reporting is important to ensure learning and accountability. It should form part of a continuous improvement approach that drives effectiveness and improves delivery of environmental law, so that it can fully play the part intended in protecting and improving the environment.

In certain cases, it is also a legal requirement. This is the case for reports required by regulations implementing section 28 of the Small Business, Enterprise and Employment Act 2015 (SBEEA 2015). It is also the case for reports required by provisions in domestic law. Examples include provisions which replaced former European Union (EU) reporting requirements following the UK's departure from the EU, such as under the Urban Waste Water Treatment (England and Wales) Regulations 1994, and provisions relating to forest risk commodities in the Environment Act 2021. In this report, unless stated otherwise, we refer to all these reviewing and reporting processes collectively as 'post-implementation review'.

However, Government has not been carrying out post-implementation reviews as it should. Here we build on recent reports of others that have sought to highlight the issue. The Regulatory Policy Committee,¹ and Secondary Legislation Scrutiny Committee² have both recently drawn attention to Government's failures in this regard more broadly. In our report we concern ourselves specifically with the matter of post-implementation review of environmental law and do so in the context of potential significant changes to environmental law through the Retained EU Law (Revocation and Reform) Bill (the REUL Bill).

Our research reveals that the Department for Environment, Food and Rural Affairs (Defra) has not published post-implementation review reports for environmental laws on at least 40 recent occasions where it was legally required to do so. We have also identified similar failures by other government departments.

This is regrettable. Besides showing a widespread problem with meeting legal requirements for post-implementation review, these failures undermine Government's accountability to Parliament and wider scrutiny of how well environmental laws are being implemented.

Post-implementation review can also evidence the value and impact of environmental laws, as well as inform decisions about their continuity. It should provide a useful source of information for decisions about possible changes to existing or new laws and how they are applied in practice.

Bringing together post-implementation reviews with wider monitoring also enables a more comprehensive evaluation of progress toward meeting environmental commitments. In our recent progress report on Government's Environmental Improvement Plan,³ we recommend the establishment of an evaluation framework for the refreshed Environmental Improvement Plan to generate timely feedback, to learn and to improve delivery. Evidence produced through post-implementation reviews should form an important part of that framework.

1 Regulatory Policy Committee, *Is regulation working as intended?* (September 2021) <<https://rpc.blog.gov.uk/2021/09/03/is-regulation-working-as-intended/>> accessed 21 February 2023.

2 House of Lords Secondary Legislation Scrutiny Committee, *Losing Impact: why the Government's impact assessment system is failing Parliament and the public* 12th Report of Session 2022–23 (October 2022). And House of Lords Secondary Legislation Scrutiny Committee, *Losing Control?: The Implications for Parliament of the Retained EU Law (Revocation and Reform) Bill* (February 2023).

3 OEP, *Progress in improving the natural environment in England, 2021/2022* (January 2023), Chapter 3.

An absence of published post-implementation review reports means that Parliament and others do not have access to all relevant information required by law to assess whether environmental laws are achieving their intended purpose. This also limits the Government's own knowledge of the extent to which environmental laws are delivering their broader objectives to protect and improve the environment, including as they consider changes to the law and approaches to pursuing new environmental ambitions. Ultimately, this will affect Government's ability to design and implement a fit-for-purpose legal framework that can deliver the vision of being the first generation to leave the natural environment of England in a better state.⁴

Our research has also found a lack of transparency around the non-publication of post-implementation review reports. Where reports have not been published, there is no publicly available information about the reasons for this, or what the intention is in relation to them.

We contacted relevant government departments with the findings of our research in respect of the post-implementation reviews (in environmental law) that are the responsibility of that department. We have taken their responses into account in our findings.

In our report, we do not address the substance of available post-implementation review reports. Rather, we are concerned here simply with the need to meet the legal requirement for Government to complete them, and publish them, in order that they might then perform their intended purpose. However, there are legal requirements for what post-implementation review should cover, and further guidance available. We would expect published reports to reflect this, follow established processes, and respect the independent role that the Regulatory Policy Committee plays.

We would also expect that sufficient account is taken of the Environmental Principles Policy Statement, as it comes into effect, and other relevant environmental law and policy. This will be important if the Government is to build an evidence base that provides assurance that any future changes to environmental law (such as through the REUL Bill) will result in a stronger legal framework for environmental protection and improvement.

We make three recommendations for how the Government should rectify its current failings and make better use of post-implementation review. Implementing these recommendations would strengthen Government's evidence base in relation to environmental laws, making it clear how they contribute to environmental commitments and ambitions. This would also provide valuable information for current legal reform proposals, such as those arising from the REUL Bill, the Energy Bill and the Levelling-up and Regeneration Bill.

Government departments responsible for relevant environmental laws (including but not limited to those identified in the annexes to this report) should publish outstanding post-implementation review reports as soon as possible. As such, we make the following recommendations:

Recommendation 1: *Government departments should set out time-bound delivery plans for publishing their outstanding, and upcoming, post-implementation review reports of environmental laws, prioritising those laws for which there is currently no published report. These plans and their prioritisation should reflect the need for post-implementation review to inform decisions about specific laws arising in connection with, for example, the REUL, Energy, and Levelling-up and Regeneration Bills.*

⁴ Set out in the Government's *25 Year Environment Plan*, and referenced in HM Government, *Environmental Improvement Plan 2023 – First revision of the 25 Year Environment Plan* (January 2023).

Recommendation 2: *Government should ensure that, before it proposes to keep, amend, repeal or replace an environmental law it, Parliament, the public and others, have recourse to an up-to-date post-implementation review report (or similar evaluation of the law's implementation where post-implementation review is not a legal requirement). This means a review should be completed and a report published in good time ahead of decisions being taken in relation to that law. Any discrepancy between the findings of the report and the proposed decision should be explained.*

Recommendation 3: *All government departments should ensure wherever relevant that post-implementation reviews are undertaken taking appropriate account of implications for environmental protection and improvement, including by considering relevant environmental policies, targets and legislation.*

Introduction

Introduction

Parliament established the Office for Environmental Protection in November 2021 to protect and improve the environment by holding Government and other public authorities to account. Our statutory functions include a duty to monitor the implementation of environmental law and the power to report on any matter concerned with the implementation of environmental law (s.29 Environment Act 2021).

In this context ‘environmental law’ is defined by the Environment Act 2021 to include any legislative provision to the extent that it is mainly concerned with environmental protection but not concerned with certain ‘excluded matters’.⁵ Devolved legislation is an excluded matter. This report therefore only covers matters concerned with the implementation of English or UK-wide environmental laws. Although the OEP’s remit also concerns ‘Northern Ireland environmental law’, this is an excluded matter so outside the scope of this report.

We have produced this report under s.29 Environment Act 2021. In it we consider UK Government obligations to undertake post-implementation review of certain environmental laws.

Requirements for post-implementation review

The Office for Environmental Protection’s role includes monitoring and reporting on the implementation of environmental law. However, Government should also monitor, evaluate and report on how environmental law and policy is implemented. This is a matter of policy and good practice, as set out in the Government’s guidance on policy evaluation (the Magenta Book).⁶ In certain cases it is also a legal requirement.

Prior to the UK’s exit from the EU, Government was required to report to the European Commission regularly on the UK’s implementation of relevant EU environmental laws.⁷ From this information the European Commission produced country-specific and pan-EU reports, including on ‘Environmental Implementation Review’.⁸ Reporting to the EU also supported activities around reviewing the effectiveness of the legislation in question and monitoring compliance with it.

Defra has recognised the importance of this reporting to support transparency of Government delivery of legislation and its effectiveness.⁹ It stated the intention to replace these previous EU law reporting requirements with new national requirements for the Government to publish implementation reports and data.¹⁰

Upon leaving the EU amendments were made to several environmental laws derived from EU law, to incorporate new review and reporting requirements into domestic law. An example of an EU-level reporting requirement is Article 17 of the Habitats Directive,¹¹

5 Section 46 Environment Act 2021.

6 HM Treasury, *Magenta Book: Central Government guidance on evaluation* (March 2020).

7 Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment [1991] OJ L 377/48. See also post-1991 EU environmental laws which typically contain their own reporting requirements.

8 European Commission, *Environmental Implementation Review* <https://environment.ec.europa.eu/law-and-governance/environmental-implementation-review_en#country-reports> accessed 3 February 2023.

9 Defra, *Consultation on environmental principles and accountability for the environment* (May 2018), p17.

10 Ibid.

11 Directive 92/43/EEC [1992] OJ L 206/7.

which requires that, at six yearly intervals, EU Member States draw up a report on their implementation of the Directive and provide it to the European Commission.

This former EU reporting requirement has been replaced in domestic law via regulation 9A of the Conservation of Habitats and Species Regulations 2017 and regulation 6A of the Conservation of Offshore Marine Habitats and Species Regulations 2017 (the Habitats Regulations).¹² These provisions require that the Government reviews the implementation of the regulations but, instead of reporting to the EU Commission, Government must now publish such reports.

In other areas, however, the picture is less clear as to what, if anything, has been done to replace former reporting to the EU on the implementation of environmental law with new, national reporting provisions, in line with Government's stated intentions.

In addition to post-implementation review reporting requirements introduced following the UK's departure from the EU, s.28 SBEEA 2015 requires that, in certain circumstances, secondary legislation contains duties on Government to carry out post-implementation reviews and publish reports of its findings.

Whilst our report does not deal with the issue of the substance of published or anticipated post-implementation reviews, SBEEA 2015 sets out minimum requirements for post-implementation review reports. Government's reports must, in particular:

- (a) set out the objectives intended to be achieved by the regulatory provision in question
- (b) assess the extent to which those objectives are achieved
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.¹³

Such reports are not limited to covering just these matters; they may cover other relevant matters, which should include environmental considerations where appropriate.¹⁴

A typical example of a review provision inserted into environmental law following s.28 SBEEA 2015 is regulation 20 of the Ozone-Depleting Substances Regulations 2015. That regulation provides:

- (1) *This regulation does not apply in respect of the application of these Regulations in Scotland.*
- (2) *Before the end of each review period, the Secretary of State must—*
 - (a) *carry out a review of these Regulations;*
 - (b) *set out the conclusions of the review in a report; and*
 - (c) *publish the report.*

¹² It is notable, here, that replacement of former EU reporting requirement in domestic law is incomplete; there is no reporting requirement in the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001.

¹³ s.30 SBEEA 2015.

¹⁴ Ibid.

- (3) *The report must in particular—*
- (a) *set out the objectives intended to be achieved by these Regulations;*
 - (b) *assess the extent to which objectives have been achieved;*
 - (c) *assess whether the objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.*
- (4) *The first review period is the period of five years beginning with the day on which these Regulations come into force.*
- (5) *Each subsequent review period is a period of five years beginning with the date on which the report of the preceding review was published.*

There are also, albeit less common, provisions in some primary legislation requiring post-implementation review; for example, paragraph 17 of Schedule 17 of the Environment Act 2021 provides that the Secretary of State must review the effectiveness of requirements and regulations associated with forest risk commodities.

Benefits of post-implementation review

Post-implementation review is fundamentally about supporting good decision-making through learning and accountability.¹⁵ It should form part of a continuous improvement approach that drives effectiveness and improves delivery of environmental law. Irrespective of a legal requirement, this is something that we would encourage to be undertaken as a matter of good practice.

By undertaking post-implementation review using recognised processes and templates there is the opportunity for a common and consistent approach to evaluation. This can provide a helpful minimum standard and allows for benchmarking and comparison over time, and across regulatory regimes.

It provides the necessary evidence for policy-makers and others to understand whether an intervention is working as intended, to recognise successes, and to identify what needs to be improved upon or avoided in future. The results of post-implementation review should be used as a resource to inform policy development.¹⁶

It allows for feedback by which Government and others may check that outcomes are in line with expectations. Post-implementation review therefore has a crucial role to play in ensuring delivery against the Government's environmental commitments and ambitions.

By transparently assessing and reporting on implementation, Government may also be held to account for delivering its policy and legal commitments. In turn, this should strengthen delivery and the practical achievement of desired outcomes.

Producing reports on the implementation of environmental law has been considered a valuable means of providing vital information on problem areas with legislation and

¹⁵ HM Treasury, *Magenta Book* (March 2020).

¹⁶ House of Lords Secondary Legislation Scrutiny Committee, *Losing Control?: The Implications for Parliament of the Retained EU Law (Revocation and Reform) Bill* (February 2023).

its effectiveness.¹⁷ Such reporting can help identify and address root causes where environmental improvements are not successfully delivered.

Achieving policy and delivery coherence

Post-implementation review is an opportunity to evaluate interventions to ensure they work coherently to deliver environmental protection and improvement.

In the current context, this is particularly important as Government is proposing reforms which may significantly affect environmental outcomes. This includes the potential for widespread reform to existing environmental and other laws through the REUL Bill.

Throughout such reforms, evidence-based, accountable policy-making is essential to protecting the environment and achieving the necessary step change to deliver environmental improvement.

Environmental law and policy are themselves also entering a period of reform. New, legally binding environmental targets have recently been set, and the Government's Environmental Improvement Plan (EIP) for significantly improving the natural environment in England has been recently reviewed and updated.¹⁸ As we set out in our EIP progress report for 2021-22, Government should implement an effective monitoring, evaluation and learning framework to support achieving the required improvement in England's natural environment.¹⁹

In January 2023, Defra also published a policy statement on internationally recognised environmental principles,²⁰ such as the prevention, precautionary and integration principles. That policy statement will guide how policy-makers across Government interpret and apply the environmental principles when making policy, which can include when considering potential policy change in light of any post-implementation review.

The duty to have due regard to the statement when making policy is expected to take effect on 1 November 2023. This relates to the date of the policy-making decision rather than the process that leads up to it. The duty will therefore apply to all relevant policy made from the date on which it comes into effect, regardless of whether any development of the policy takes place before that date. This means that ministers and officials will need to have due regard to the statement in the development of all relevant policies that are already in preparation, or initiated in the coming months, where the policy is made after the duty takes effect.

By periodically reviewing the implementation of environmental and other laws, having due regard to the policy statement, Government can ensure effective consideration of the environmental principles to inform better policy development. Government can also make sure the law works coherently to support a significant improvement in the natural environment in accordance with its EIP and legally binding targets.

17 UKELA, *Brexit and Environmental Law: Enforcement and Political Accountability Issues* (July 2017).

18 HM Government, *Environmental Improvement Plan 2023 – First revision of the 25 Year Environment Plan* (January 2023).

19 OEP, *Progress in improving the natural environment in England, 2021/2022* (January 2023), Recommendation 5 and Chapter 3.

20 HM Government, *Environmental Principles Policy Statement* (January 2023).

Our Research

Our Research

We have undertaken research on DefraLex, the established online portal to the legislation for which Defra is the responsible department.²¹ This is a valuable resource, making legislation more accessible and transparent, for which Defra and the National Archives are to be commended.

As of 31 January 2023, DefraLex listed 2,366 pieces of in-force legislation, comprising 195 Acts of Parliament plus 2,171 UK statutory instruments and other UK statutory rules and orders. Excluding primary legislation, commencement orders, and legislation which amends or revokes other laws, there are 1,070 listed pieces of in-force secondary legislation.

We have categorised 405 of these as containing environmental law.²² It was not necessary for our research to undertake this categorisation in detail, and we have not done so. In many cases, however, whether a piece of legislation includes environmental law is clear: for example, the Habitats Regulations or the Environmental Permitting (England and Wales) Regulations 2016. In other cases, we established whether a piece of legislation appeared to contain environmental law, having regard to relevant materials such as its Explanatory Notes and related (retained) EU laws.

DefraLex includes information regarding which legislation is subject to post-implementation review. That information does not appear to be entirely accurate.²³ We therefore considered each of the 405 environmental laws identified and established that 48 contain a review provision inserted pursuant to s.28 SBEEA 2015. We also established that eight contain a review provision inserted to provide a national replacement in domestic law for reporting previously undertaken at EU level. There is overlap in the laws covered by these two approaches, such that overall we identify 50 separate environmental laws containing a review provision.

For the 56 review requirements identified in total, across 50 laws, we established the dates by which Defra is required to have completed post-implementation reviews and published its reports.

Statutory guidance under s.31 SBEEA 2015 states that post-implementation review reports arising pursuant to that Act should be published on legislation.gov.uk.²⁴ We therefore looked at the legislation.gov.uk webpages for each of the 50 environmental laws concerned to establish whether they included post-implementation review reports. We also searched GOV.UK for any relevant post-implementation reviews arising other than pursuant to s.28 SBEEA 2015 or which may have been published on GOV.UK instead of on legislation.gov.uk.

21 DefraLex <www.legislation.gov.uk/defralex> accessed 31 January 2023.

22 As defined in s.46 Environment Act 2021.

23 For example, DefraLex records a review date of 1 October 2032 for the Beavers (England) Order 2022 whereas that Order does not include a review provision (nor is there a relevant review provision in the legislation the Order amends). Conversely, DefraLex does not record a review date for the Habitats Regulations, whereas reg 142 of those regulations requires that Defra reviews their implementation and publishes a report by 30 November 2022.

24 BEIS, *Statutory Guidance under s.31 of the Small Business, Enterprise and Employment Act: Determining whether it is appropriate to make provision for review (Post-Implementation Review Guidance)* (December 2017), footnote 4.

Our Findings

Our Findings

Defra

For seven of the 56 post-implementation review provisions concerned, a report is not yet due. For the remaining 49 laws, we cannot find any instances where all the required post-implementation review reports have been published on legislation.gov.uk or GOV.UK on or before the relevant legal deadline(s). In some instances, Defra has published a report but did so late (in one case over four years late). In only two instances can we identify that Defra has published a report on time.

For 35 (62.5%) of the review provisions we identified where a deadline has passed, Defra has not published any post-implementation review report at all.

We set out our findings in more detail in Annex A. In that annex we include a 'red-amber-green' (RAG) rating for each of the laws concerned. We colour-code as grey those laws which are not yet due a post-implementation review. For the rest, we code the law as green where Defra has published a report within the last five years (although this does not necessarily mean that it was completed on or before the legal deadline). We code the law amber where Defra has published a report previously but has not updated it within the last five years (as it is required to do). We code as red those laws for which Defra has not published a post-implementation review report at all, meaning the statutory deadline has passed and a report is still pending. This is summarised in table 1 below.

Table 1: Availability of post-implementation review reports

Description	RAG	instances	%
No report yet due	Grey	7	12.5
Recent report available	Green	9	16
Historic report available	Amber	5	9
No report available	Red	35	62.5

The majority (82%) of review provisions in environmental law, where the deadline for producing a report has passed, have not led to a recent review (i.e. one undertaken within the last 5 years) with the results published online (on legislation.gov.uk or GOV.UK).

Other government departments

Government departments other than Defra are responsible for important environmental laws. Annex B includes a number of environmental laws we have identified that are the responsibility of departments other than Defra. We have colour-coded Annex B in the same way as for Annex A.

These government departments do not have an equivalent resource to Defra's DefraLex online portal, so our research was restricted to searching legislation.gov.uk and GOV.UK. Whilst not intended to be exhaustive, we have sought to verify these findings with government departments, and the picture here is sufficiently concerning to warrant highlighting.

As Annex B shows, the Department for Transport (DfT) has not published a report in the single instance identified where the 2019 due date has passed. In seven other cases no post-implementation review report is yet due.

In the case of the Department for Levelling Up Housing and Communities (DLUHC), it has not published reports in respect of three of the four environmental laws identified in Annex B where the date for report publication has passed.

The Department for Business Energy & Industrial Strategy (BEIS) has published a report in six instances where a report was required (albeit late in four cases).²⁵ In respect of six further instances, BEIS has not published the required report.

We sought confirmation of our findings with relevant government departments and have taken account of their responses in our report.

²⁵ The functions previously undertaken by BEIS have now been split between the Department for Business and Trade, the Department for Science, Innovation and Technology, and the Department for Energy Security and Net-Zero (DESNZ). We understand that the environmental laws listed in Annex B that were the responsibility of BEIS will now be the responsibility of DESNZ.

Conclusions and Recommendations

Conclusions and Recommendations

Failure to comply with environmental law

A good number of legally required post-implementation review reports have not been completed, or not been completed and published as the law requires. Compliance has not improved in recent years; despite the Regulatory Policy Committee and Secondary Legislation Scrutiny Committee both having reported on failures.

We recognise that Government has faced exceptional challenges in recent years. However, our research suggests a more longstanding problem. That problem appears to be widespread and systemic within Defra and across other government departments in respect of the requirements in environmental law.

This is consistent with findings made by others. In September 2021 the Regulatory Policy Committee commented on a ‘long-term and systemic’ problem with government departments not conducting post-implementation reviews on time.²⁶ In October 2022 the House of Lords Secondary Legislation Scrutiny Committee identified similar gaps in undertaking post-implementation reviews across Government.²⁷ Government, and the Regulatory Policy Committee, responded to that report in December 2022.²⁸ In February of this year the Secondary Legislation Scrutiny Committee pressed its concerns again, asking for effective steps to be taken to ensure that post-implementation review is made a priority, with results being used as a resource in informing policy development.²⁹

Such failures undermine the ability of observers, including the Office for Environmental Protection, to scrutinise how environmental laws are being implemented. They undermine Government’s accountability to Parliament and the rule of law.

They also mean Government is less well placed to know how environmental laws are performing in practice; how well they are delivering policy objectives to protect and improve the environment, or what any associated costs may be. Without proper post-implementation review, new laws and policies may be put in place without the benefit of good quality evidence and consistent and timely evaluation.

Regarding the failures covered by this report, and in line with our policy, we consider that it is most efficient and effective at this stage to set out the issue via this report and recommend corrective action.

We would expect Government, in its response to this report, to provide reassurance as to how failures will be swiftly rectified (see our recommendation 1). We will keep this matter under review as we continue to monitor Government’s compliance with environmental law.³⁰

26 Regulatory Policy Committee, *Is regulation working as intended?* (September 2021) <<https://rpc.blog.gov.uk/2021/09/03/is-regulation-working-as-intended/>> accessed 3 February 2023.

27 House of Lords Secondary Legislation Scrutiny Committee, *Losing Impact: why the Government’s impact assessment system is failing Parliament and the public*, 12th Report of Session 2022–23 (12 October 2022).

28 House of Lords Secondary Legislation Scrutiny Committee, *Responses from the Government and the Regulatory Policy Committee to ‘Losing Impact: why the Government’s impact assessment system is failing Parliament and the public’* (December 2022).

29 House of Lords Secondary Legislation Scrutiny Committee, *Losing Control?: The Implications for Parliament of the Retained EU Law (Revocation and Reform) Bill* 12th Report of Session 2022–23 (February 2023).

30 The Office for Environmental Protection has enforcement functions in respect of suspected failures to comply with environmental law by public authorities (ss.31-41 Environment Act 2021), and we operate in accordance with our published Enforcement Policy.

Implementation review and legislative reform

The lack of transparent, post-implementation review is particularly damaging at the current time when Government is proposing significant reform to environmental laws.

This reform includes Defra's proposals in its Nature Recovery Green Paper to amend, amongst other laws, the Habitats Regulations.³¹ We advised Defra in May 2022 in connection with those proposals, emphasising the need for a public, substantive evidence base underpinning any reforms the department might take forward.³² We note, however, that Defra has not published post-implementation review reports for the Habitats Regulations (due 30 November 2022).

Reform also includes proposals to amend environmental impact assessment (EIA) and strategic environmental assessment (SEA) regimes via the Levelling-up and Regeneration Bill.

On 11 May 2022, the Secretary of State for Levelling Up, Housing and Communities introduced the Levelling-up and Regeneration Bill to Parliament. Part 6 of that Bill contains powers for Government to amend, repeal or revoke SEA and EIA regulations, including those EIA laws set out in Annexes A and B. The Bill would allow Government to replace these existing EIA and SEA requirements with a new regime for environmental outcome reporting. The SEA regulations do not include post-implementation review provisions. For EIA, all the EIA regulations listed in Annexes A and B are colour coded red; they lack a recent, published post-implementation review report.

The Bill is accompanied by an impact assessment.³³ That impact assessment contains only limited, high-level information on the implementation of existing EIA and SEA legislation. It lacks the level of detailed information required of post-implementation review.³⁴ Consequently, Parliament, the public and others do not have the benefit of the legally required analysis of how existing EIA regulations have been implemented as they scrutinise potentially significant reform to those laws.

Relevant reform proposals particularly arise in relation to the revocation and reform of retained EU law, including retained EU environmental law. Under clause 1 of the REUL Bill, retained EU laws will be automatically revoked at the end of 2023. Clause 2 of the Bill would allow ministers to extend that date in relation to specific retained EU laws, extending to no later than 23 June 2026. Under clauses 12 to 15, relevant national authorities may restate, reproduce, revoke or replace retained EU laws.

Defra has identified over 1,700 pieces of retained EU law for which it is responsible, and which are in scope for these reforms.³⁵ Defra will need to urgently decide whether to allow any of those laws to be automatically revoked at the end of this year or whether to delay that revocation. It will also need to decide whether to restate, reproduce or replace any of those laws.

31 Defra, *Nature Recovery Green Paper: Protected Sites and Species* (March 2022).

32 OEP, *Advice on the Nature Recovery Green Paper* (11 May 2022).

33 DLUHC, *The Levelling Up and Regeneration Bill: Impact Assessment* (April 2022).

34 HM Treasury, *Magenta Book 2020 Supplementary Guide: Guidance for conducting regulatory post implementation reviews* (March 2020).

35 Cabinet Office, *Retained EU Law – Public Dashboard* <<https://public.tableau.com/app/profile/governmentreporting/viz/UKGovernment-RetainedEULawDashboard/Guidance>> accessed 6 February 2023.

Decisions over the future of existing environmental laws ought to be taken with the benefit of recent evaluation of how those laws are implemented, their costs and the benefits to environmental outcomes they deliver. As set out in our evidence to the REUL Bill Public Bill Committee, Government should also provide transparency over the process to be adopted for its reviews.³⁶ This should include transparency over the evidence base relied on, something which post-implementation review reporting would support.

Implementation review and EIP delivery

As set out in our EIP progress report for 2021-22,³⁷ there is currently insufficient policy evaluation evidence to effectively support EIP delivery. There is an uneven distribution of published evaluations across policy areas covered by the EIP, with notable gaps in the evidence base for some EIP goals.

The findings of our research set out in this report suggest that is compounded by Defra and other government departments not undertaking legally required post-implementation reviews.

Comprehensive, holistic monitoring and evaluation is necessary if Government and others are to understand progress towards meeting environmental targets and improving the natural environment in accordance with the EIP. The failure to properly evaluate the implementation of environmental law and policy undermines this and ultimately risks the achievement of Government's vision in the EIP to be the first generation to leave the natural environment of England in a better state.

We recommended in our EIP progress report that Government establishes an evaluation framework for its refreshed EIP, and to use this to generate timely feedback and learning on how to improve delivery.³⁸ Evaluation evidence produced through post-implementation reviews should form an important part of that framework.

We set out further recommendations below in relation to the findings of this report. Government should consider these recommendations alongside those of our EIP progress report.

Recommendations

Considering our findings and conclusions set out above, it is imperative that Government moves swiftly to improve its post-implementation review of environmental law, and to make such reviews publicly available. Production and publication of post-implementation review reports by a specified date is a legal requirement. In many cases the legal requirement has not been met. These failures should be rectified as soon as possible.

Government departments responsible for relevant environmental laws (including but not limited to those identified in the annexes to this report) should publish outstanding post-implementation review reports at the earliest opportunity.

36 OEP, *Written Evidence to the House of Commons Public Bill Committee for the Retained EU Law (Revocation and Reform) Bill* (November 2022).

37 OEP, *Progress in improving the natural environment in England, 2021/2022* (January 2023), Chapter 3.

38 *Ibid*, Recommendation 5.

In addressing the issues we highlight in this report we make the following recommendations:

Recommendation 1: *Government departments should set out time-bound delivery plans for publishing their outstanding, and upcoming, post-implementation review reports of environmental laws, prioritising those laws for which there is currently no published report. These plans and their prioritisation should reflect the need for post-implementation review to inform decisions about specific laws arising in connection with the REUL, Energy, and Levelling-up and Regeneration Bills.*

Whilst every effort should be made to publish outstanding post-implementation review reports as soon as possible, it is important to prioritise, giving most attention to those laws for which no post-implementation review report is available (laws colour-coded red in the annexes to this report). This supports the objective of post-implementation review of good decision-making through learning and accountability.

There is also a need to improve transparency around the processes and decision-making in respect of reports which are delayed or are upcoming. Not only should government departments establish clear delivery plans setting out when post-implementation review reports will be published, and how they are being prioritised, we would welcome clarity around the reasons why they have not been published when required.

This level of transparency is important to ensure that Parliament and others can effectively scrutinise departments' plans and ensure accountability. At the moment, it is too often the case that legal requirements for Government to produce post-implementation reviews pass with nothing being produced and no explanation being given, leaving the public, Parliament and others in the dark.

Recommendation 2: *Government should ensure that, before it proposes to keep, amend, repeal or replace an environmental law it, Parliament, the public and others, have recourse to an up-to-date post-implementation review report (or similar evaluation of the law's implementation where post-implementation review is not a legal requirement). This means a review should be completed and a report published in good time ahead of decisions being taken in relation to that law. Any discrepancy between the findings of the report and the proposed decision should be explained.*

In setting out delivery plans for post-implementation review, whilst priority needs to be given to those that are already overdue, we would anticipate that priority also be given to those relating to regulations potentially impacted by proposed changes to environmental law through, for example, the REUL Bill.

With the potential for significant change to the environmental legal framework resulting from the REUL Bill (and other Bills), and commitments from Government that these will not result in a reduction in the levels of environmental protection, it is important that all concerned have access to a robust evidence base in respect of any laws that are proposed for retention, revocation, amendment, or replacement. Publication of post-implementation reviews should at least keep pace with, and ideally should operate ahead of, the processes and decision-making happening in respect of any Bill proposing reform of environmental law.

Where environmental law contains a review provision, Government should publish a post-implementation review report in accordance with that provision. In other cases,

Government should take appropriate steps to publish equivalent evidence of the environmental law's implementation.

Recommendation 3: *All government departments should ensure wherever relevant that post-implementation reviews are undertaken taking appropriate account of implications for environmental protection and improvement, including by considering relevant environmental policies, targets and legislation.*

Post-implementation reviews should be carried out in line with legal requirements,³⁹ relevant guidance,⁴⁰ and in accordance with processes set out and overseen by the Regulatory Policy Committee.

Government departments should also take account of all relevant considerations in making their decisions,⁴¹ including decisions over post-implementation reviews and the action to take as a consequence of such reviews. Government departments therefore ought to take proper, proportionate account of environmental considerations through their post-implementation reviews in each case where relevant to do so.

This may include departments considering, in particular, the Government's EIP, environmental targets (such as Net Zero, and targets set under the Environment Act 2021) and the new Environmental Principles Policy Statement. Doing so helps ensure legal obligations are met, the need for environmental protection and enhancement is properly accounted for and policy-making across all departments is coherent with meeting the Government's environmental objectives.

Decisions over whether to renew, amend, remove, or replace a regulatory provision can also fall within the meaning of 'making policy'.⁴² By law, government departments will need to have due regard to the Environmental Principles Policy Statement when approaching those decisions.⁴³

39 For example, s.30 SBEEA 2015.

40 For example, Regulatory Policy Committee, *Post Implementation Reviews* (March 2019); HM Treasury, *Magenta Book 2020 Supplementary Guide: Guidance for conducting regulatory post implementation reviews* (March 2020); BEIS, *Producing post-implementation reviews: principles of best practice* (August 2021).

41 *Re Duffy* [2008] UKHL 4.

42 As defined in s.47 Environment Act 2021. That section defines "making" policy as including developing, adopting or revising policy; and defines "policy" as including proposals for legislation. Government's Environmental Principles Policy Statement further indicates that policy "can be broadly understood as an intended course of action adopted to achieve an objective", with examples including "proposals that lead to legislation". It also indicates that making policy "includes making, developing, adopting, revising, or repealing policy".

43 The duty in s.19 Environment Act 2021, requiring that ministers have due regard to the policy statement, is expected to come into force on 1 November 2023. However, environmental principles are incorporated into numerous international treaties ratified by the UK. To help ensure the UK meets its legal obligations pursuant to these treaties, and where good practice requires it, government departments should take proper account of the policy statement in advance of the s.19 duty to do so coming into force.

Annexes

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Annex A – Post-implementation Review of Defra Environmental Laws

Annex A – Post-implementation Review of Defra Environmental Laws

Description	RAG
No report yet due	
Recent report available	Green
Historic report available	Yellow
No report available	Red

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline ⁴⁴
Reg 21 Ecodesign for Energy-Related Products Regulations 2010	20/11/15 and five-yearly thereafter	2015 PIR report belatedly published in February 2016 ⁴⁵ but no subsequent PIR report found (due November 2020)	Yellow	20/11/25
Reg 17 Energy Information Regulations 2011	19/07/16 and five-yearly thereafter	2016 PIR report belatedly published in November 2020 ⁴⁶ and 2021 PIR report published in July 2021 ⁴⁷	Green	19/07/26
Reg 40A Nitrate Pollution Prevention Regulations 2015	01/07/16 and four-yearly thereafter	2016 PIR report belatedly published in December 2016 ⁴⁸ but no subsequent PIR report found (due July 2020)	Yellow	01/07/24
Reg 1 Plant Protection Products Regulations 2011	24/09/16 and five-yearly thereafter	No PIR reports found (due September 2016 and September 2021)	Red	24/09/26
Reg 4 Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011	10/10/16 and five-yearly thereafter	2016 PIR report published in August 2016 ⁴⁹ but no subsequent PIR report found (due August 2021)	Yellow	09/08/26

44 For the 'next reporting deadline' we have listed the earlier date of the statutory deadline or five years from the last report. This approach is taken throughout the annexes.

45 Defra, *Ecodesign for Energy-related Products Regulations 2010 – Post Implementation Review* (June 2021) <www.legislation.gov.uk/uksi/2010/2617/pdfs/uksiod_20102617_en.pdf> accessed 3 February 2023.

46 Defra, *Energy Information Regulations 2011: Post Implementation Review* (November 2020) <www.legislation.gov.uk/uksi/2011/1524/pdfs/uksiod_20111524_en.pdf> accessed 3 February 2023.

47 Defra, *Energy Information Regulations 2011: Post Implementation Review* (July 2021) <www.legislation.gov.uk/uksi/2011/1524/pdfs/uksiod_20111524_en_001.pdf> accessed 3 February 2023.

48 Defra, *Implementation of the Nitrate Pollution Prevention Regulations 2015 in England* (December 2016) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/573533/groundwater-nvz-methodology-2017-2020.pdf> accessed 3 February 2023.

49 Defra, *Alien and Locally Absent Species in Aquaculture (England and Wales) Regulations 2011 – Post Implementation Review* (August 2016) <www.legislation.gov.uk/uksi/2011/2292/pdfs/uksiod_20112292_en_001.pdf> accessed 3

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline ⁴⁴
Reg 30 Animal By-Products (Enforcement) (England) Regulations 2013	30/11/16 and five-yearly thereafter	No PIR reports found (due November 2016 and November 2021)		30/11/26
Reg 26 Batteries and Accumulators (Placing on the Market) Regulations 2008	31/05/17 and five-yearly thereafter	No PIR reports found (due May 2017 and May 2022)		31/05/27
Reg 42 Producer Responsibility Obligations (Packaging Waste) Regulations 2007	01/07/17 and five-yearly thereafter	2017 PIR report published in March 2017 ⁵⁰ but no subsequent PIR report found (due March 2022)		17/03/27
Reg 3 Plant Protection Products (Sustainable Use) Regulations 2012	10/07/17 and five-yearly thereafter	No PIR reports found (due July 2017 and July 2022)		10/07/27
Reg 9 Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012	27/07/2017 and five-yearly thereafter	No PIR reports found (due July 2017 and July 2022)		27/07/27
Reg 15 INSPIRE Regulations 2009	01/08/17 and five-yearly thereafter	No PIR reports found (due August 2017 and August 2022)		01/08/27
Reg 49 Waste (England and Wales) Regulations 2011	01/10/17 and five-yearly thereafter	2017 PIR report belatedly published in December 2018 ⁵¹ but no subsequent PIR report found (due October 2022)		01/10/27
Reg 46 Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012	02/02/18 and five-yearly thereafter	2018 PIR report belatedly published in May 2018 ⁵²		02/02/23

February 2023.

50 Defra, *Producer Responsibility Obligations (Packaging Waste) Regulations 2007: post implementation review 2017* (July 2017) <www.legislation.gov.uk/uksi/2007/871/pdfs/uksiod_20070871_en.pdf> accessed 3 February 2023.

51 Defra, *Statutory Review: The Waste (England and Wales) Regulations 2011* (December 2018) <www.legislation.gov.uk/uksi/2011/988/pdfs/uksiod_20110988_en.pdf> accessed 3 February 2023.

52 Defra, *Restriction of the use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012: Post Implementation Review* (May 2018) <www.legislation.gov.uk/uksi/2012/3032/pdfs/uksiod_20123032_en.pdf> accessed 3 February 2023.

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline ⁴⁴
Reg 17 Timber and Timber Products (Placing on the Market) Regulations 2013	03/03/18 and five-yearly thereafter	2018 PIR report belatedly published in April 2018 ⁵³		03/03/23
Reg 31 Detergents Regulations 2010	30/06/18 and five-yearly thereafter	No PIR report found (due June 2018)		30/06/23
Reg 20 Bathing Water Regulations 2013	31/07/18 and five-yearly thereafter	2018 PIR report belatedly published in August 2018 ⁵⁴		31/07/23
Reg 24 REACH Enforcement Regulations 2008	16/12/18 and five-yearly thereafter	No PIR report found (due December 2018)		16/12/23
Reg 93 Waste Electrical and Electronic Equipment Regulations 2013	01/01/19 and five-yearly thereafter	2019 PIR report belatedly published in February 2020 ⁵⁵		01/01/24
Reg 3 Prohibition of Keeping or Release of Live Fish (Specified Species) (England) Order 2014	17/02/19 and five-yearly thereafter	No PIR report found (due February 2019)		17/02/24
Reg 59C Transfrontier Shipment of Waste Regulations 2007	01/05/19 and five-yearly thereafter	No PIR report found (due May 2019)		01/05/24
Reg 9 Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007	29/08/19 and five-yearly thereafter	No PIR report found (due August 2019)		29/08/24
Reg 80 Environmental Permitting (England and Wales) Regulations 2016	31/12/19 and five-yearly thereafter	No PIR report found (due December 2019)		31/12/24
Reg 12 Sludge (Use in Agriculture) Regulations 1989	31/12/19 and three-yearly thereafter	No PIR reports found (due December 2019 and December 2022)		31/12/25

53 Defra, *Timber and Timber Products (Placing on the Market) Regulations 2013: Post Implementation Review* (April 2018) <www.legislation.gov.uk/ukxi/2013/233/pdfs/ukxi0d_20130233_en_001.pdf> accessed 3 February 2023.

54 Defra, *Bathing Water Regulations 2013: Post Implementation Review* (November 2018) <www.legislation.gov.uk/ukxi/2013/1675/pdfs/ukxi0d_20131675_en_002.pdf> accessed 3 February 2023.

55 Defra, *Waste Electrical and Electronic Equipment Regulations 2013: Post Implementation Review* (January 2020) <www.legislation.gov.uk/ukxi/2013/3113/pdfs/ukxi0d_20133113_en.pdf> accessed 3 February 2023.

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline ⁴⁴
Reg 36 Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014	01/01/20 and five-yearly thereafter	No PIR report found (due January 2020)		01/01/25
Reg 14 Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014	12/01/20 and five-yearly thereafter	No PIR report found (due January 2020)		12/01/25
Reg 20 Ozone-Depleting Substances Regulations 2015	07/03/20 and five-yearly thereafter	2020 PIR report belatedly published in October 2021 ⁵⁶		07/03/25
Reg 32 Fluorinated Greenhouse Gases Regulations 2015	19/03/20 and five-yearly thereafter	2020 PIR report belatedly published in October 2021 ⁵⁷		19/03/25
Reg 6 Salmon and Migratory Trout (Prohibition of Fishing and Landing) (England) Order 2015	25/03/20 and five-yearly thereafter	No PIR report found (due March 2020)		25/03/25
Reg 8 Ship Recycling Facilities Regulations 2015	26/03/20 and five-yearly thereafter	No PIR report found (due March 2020)		26/03/25
Reg 40 Nitrate Pollution Prevention Regulations 2015	31/03/20 and five-yearly thereafter	No PIR report found (due March 2020)		31/03/25
Reg 15A Bathing Water Regulations 2013	30/04/20 and yearly thereafter	2022 PIR report belatedly published in November 2022 ⁵⁸		30/04/23
Reg 35 Environmental Damage (Prevention and Remediation) (England) Regulations 2015	19/07/20 and five-yearly thereafter	No PIR report found (due July 2020)		19/07/25

56 Defra, *Ozone-Depleting Substances Regulations 2015: Post Implementation Review* (October 2021) <www.legislation.gov.uk/ukxi/2015/168/pdfs/ukxi0d_20150168_en.pdf> accessed 3 February 2023.

57 Defra, *Fluorinated Greenhouse Gases Regulations 2015: Post Implementation Review* (October 2021) <www.legislation.gov.uk/ukxi/2015/310/pdfs/ukxi0d_20150310_en.pdf> accessed 3 February 2023.


58 Defra, *Bathing water classifications 2022* > accessed 3 February 2023.

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline ⁴⁴
Reg 32A Organic Products Regulations 2009	01/10/20 and five-yearly thereafter	No PIR report found (due October 2020)		01/10/25
Reg 18 Carrier Bags Charges (England) Order 2015	05/10/20 and five-yearly thereafter	No PIR report found (due October 2020)		05/10/25
Reg 12A Urban Waste Water Treatment (England and Wales) Regulations 1994	31/12/20 and two-yearly thereafter	2020 PIR report belatedly published in December 2022 ⁵⁹		31/12/24
Reg 79 Hazardous Waste (England and Wales) Regulations 2005	01/04/21 and five-yearly thereafter	No PIR report found (due April 2021)		01/04/26
Reg 16 Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018	02/04/21 and five-yearly thereafter	No PIR report found (due April 2021)		02/04/26
Reg 55A Conservation of Offshore Marine Habitats and Species Regulations 2017	31/01/22 and two-yearly thereafter	No PIR report found (due January 2022)		31/01/24
Reg 13 Forest Law Enforcement, Governance and Trade Regulations 2012	20/02/22 and five-yearly thereafter	No PIR report found (due February 2022)		20/02/27
Reg 37A Environmental Impact Assessment (Agriculture) (England) (No 2) Regulations 2006	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27
Reg 26 Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27
Reg 31 Marine Works (Environmental Impact Assessment) Regulations 2007	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27

59 Defra, *Wastewater treatment in England: data for 2020* <www.gov.uk/government/publications/wastewater-treatment-in-england> accessed 31 January 2023.

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline ⁴⁴
Reg 17 Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27
Reg 6 Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000	01/10/22 and five-yearly thereafter	No PIR report found (due October 2022)		01/10/27
Reg 142 Conservation of Habitats and Species Regulations 2017	30/11/22 and five-yearly thereafter	No PIR report found (due November 2022)		30/11/27
Reg 82 Conservation of Offshore Marine Habitats and Species Regulations 2017	30/11/22 and five-yearly thereafter	No PIR report found (due November 2022)		30/11/27
Reg 4 Ringing of Certain Captive-bred Birds (England and Wales) Regulations 2017	28/12/22 and five-yearly thereafter	No PIR report found (due December 2022)		28/12/27
Reg 12 Environmental Protection (Microbeads) (England) Regulations 2017	09/01/23 and five-yearly thereafter	No PIR report found (due January 2023)		09/01/28
Reg 43 Producer Responsibility Obligations (Packaging Waste) Regulations 2007	01/02/23 and three-yearly thereafter	No PIR report found (due February 2023)		01/02/26
Reg 43 Invasive Alien Species (Enforcement and Permitting) Order 2019	01/10/24 and five-yearly thereafter	PIR report not yet due		01/10/24
Reg 56 Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019	14/12/24 and five-yearly thereafter	PIR report not yet due		14/12/24
Reg 19 Official Controls (Plant Protection Products) Regulations 2020	14/12/24 and five-yearly thereafter	PIR report not yet due		14/12/24

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline ⁴⁴
Reg 24 Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020	01/10/25 and five-yearly thereafter	PIR report not yet due		01/10/25
Reg 25 Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020	08/10/25 and five-yearly thereafter	PIR report not yet due		08/10/25
Reg 9A Conservation of Habitats and Species Regulations 2017	31/01/26 and six-yearly thereafter	PIR report not yet due		31/01/26
Reg 6A Conservation of Offshore Marine Habitats and Species Regulations 2017	31/01/26 and six-yearly thereafter	PIR report not yet due		31/01/26

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Annex B – Post-implementation Review of Certain Non-Defra Environmental Laws

Annex B – Post-implementation Review of Certain Non-Defra Environmental Laws

Description	RAG
No report yet due	
Recent report available	
Historic report available	
No report available	

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline
Department for Transport				
Reg 38 Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008	16/12/19 and five-yearly thereafter	No PIR report found (due December 2019)		16/12/24
Reg 44 Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018	12/03/23 and five-yearly thereafter	PIR report not yet due		12/03/23
Reg 26 Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012	15/04/23 and five-yearly thereafter	PIR report not yet due		15/04/23
Art 1A Renewable Transport Fuel Obligations Order 2007	15/04/23 and five-yearly thereafter	PIR report not yet due		15/04/23
Reg 48 Merchant Shipping (Prevention of Oil Pollution) Regulations 2019	01/03/24 and five-yearly thereafter	PIR report not yet due		01/03/24
Reg 27 Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020	22/07/25 and five-yearly thereafter	PIR report not yet due		22/07/25
Reg 36 Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020	22/07/25 and five-yearly thereafter	PIR report not yet due		22/07/25

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline
Reg 51 Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022	29/07/27 and five-yearly thereafter	PIR report not yet due		29/07/27
Department for Levelling Up, Housing and Communities				
Reg 47 Energy Performance of Buildings (England and Wales) Regulations 2012	09/01/18 and five-yearly thereafter	2018 PIR report belatedly published May 2020 ⁶⁰ but no subsequent PIR report found (due January 2023)		09/01/28
Reg 35 Planning (Hazardous Substances) Regulations 2015	01/06/20 and five-yearly thereafter	No PIR report found (due June 2020)		01/06/25
Reg 71 Town and Country Planning (Environmental Impact Assessment) Regulations 2017	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27
Reg 2 Infrastructure Planning (Environmental Impact Assessment) Regulations 2017	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27
Department for Business, Energy & Industrial Strategy				
Reg 10 Climate Change Agreements (Eligible Facilities) Regulations 2012	01/01/18	2018 PIR report published December 2017 ⁶¹		n/a (regs cease to have effect 31/03/23)
Reg 1 Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013	19/05/18 and five-yearly thereafter	2018 PIR report published March 2018 ⁶²		29/03/23
Reg 6 Energy Efficiency (Building Renovation and Reporting) Regulations 2014	29/04/19 and five-yearly thereafter	2019 PIR report belatedly published July 2020 ⁶³		29/04/24

60 DLUHC, *Energy Performance of Buildings Regulations 2012: implementation report* (May 2020) <www.gov.uk/government/publications/energy-performance-of-buildings-regulations-2012-implementation-report> accessed 16 February 2023.

61 BEIS, *Report on the Post Implementation review of the Climate Change Agreements (Eligible Facilities) Regulations* (December 2017) <www.legislation.gov.uk/uksi/2012/2999/pdfs/uksi0d_20122999_en.pdf> accessed 3 February 2023.

62 BEIS, *The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 Post Implementation Review* (March 2018) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705016/2013_Regulations_-_Post_Implementation_Review.pdf> accessed 6 February 2023.

63 BEIS, *Energy Efficiency (Building Renovation and Reporting) Regulations 2014 Post Implementation Review* (July 2020) <www.legislation.gov.uk/uksi/2014/952/pdfs/uksi0d_20140952_en.pdf> accessed 3 February 2023.

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline
Reg 13 Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014	25/06/19 and five-yearly thereafter	2019 PIR report belatedly published July 2020 ⁶⁴		25/06/24
Reg 3 Energy Savings Opportunity Scheme Regulations 2014	17/07/19 and five-yearly thereafter	2019 PIR report belatedly published February 2020 ⁶⁵		17/07/24
Reg 4 Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	01/10/20 and five-yearly thereafter	2020 PIR report belatedly published March 2021 ⁶⁶		01/10/25
Reg 22 Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001	01/10/21 and five-yearly thereafter	No PIR report found (due October 2021)		01/10/26
Reg 19A Offshore Chemicals Regulations 2002	01/10/21 and five-yearly thereafter	No PIR report found (due October 2021)		01/10/26
Reg 18A Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005	01/10/21 and five-yearly thereafter	No PIR report found (due October 2021)		01/10/26
Reg 20 Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27
Reg 16 Pipe-line Works (Environmental Impact Assessment) Regulations 2000	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27
Reg 44 Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017	16/05/22 and five-yearly thereafter	No PIR report found (due May 2022)		16/05/27

64 BEIS, *Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014 Post Implementation Review* (July 2020) <www.legislation.gov.uk/ukxi/2014/1403/pdfs/uksiod_20141403_en.pdf> accessed 3 February 2023.

65 BEIS, *Review of the Energy Savings Opportunity Scheme Regulations 2014* (February 2020) <www.legislation.gov.uk/ukxi/2014/1643/pdfs/uksiod_20141643_en.pdf> accessed 3 February 2023.

66 BEIS, *Review of the Private Rented Sector Energy Efficiency Regulations* (March 2021) <www.legislation.gov.uk/ukxi/2015/962/pdfs/uksiod_20150962_en.pdf> accessed 3 February 2023.

Legislation	Reporting requirement	Past post-implementation review (PIR) reports found on legislation.gov.uk/GOV.UK	RAG	Next reporting deadline
Reg 15 Nuclear Decommissioning and Waste Handling (Finance and Fees) Regulations 2013	04/03/23	PIR report not yet due		04/03/23
Reg 30 Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020	31/12/25 and five-yearly thereafter	PIR report not yet due		31/12/25
Reg 5 Limited Liability Partnerships (Climate-related Financial Disclosure) Regulations 2022	06/04/27 and five-yearly thereafter	PIR report not yet due		06/04/27
Reg 5 Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022	06/04/27 and five-yearly thereafter	PIR report not yet due		06/04/27

