EXPLANATORY MEMORANDUM TO

THE CUSTOMS (SAFETY AND SECURITY PROCEDURES) REGULATIONS 2025

2025 No. 20

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 James Murray MP, Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Sara Albores Nodar, Deputy Director for Non-Freight, Border Information and Safety and Security, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Zoe Hambridge at HMRC, Telephone: 03000 530244 or email: zoe.hambridge@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument introduces the requirement for an entry summary declaration (also known as an 'ENS') for goods imported from the EU and other associated territories where a waiver currently applies. This instrument enables HMRC to prescribe the safety and security information required for imports (on an ENS declaration) and exports (on an exit summary declaration, known as an 'EXS'). Through public notice, HMRC also intends to reduce the minimum data required for imports from all territories.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

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

5. Policy Context

What is being done and why?

5.1 This instrument introduces the requirement for an ENS declaration for goods imported into Great Britain (GB) from the EU and other associated territories from 31 January 2025. The data from ENS declarations will provide critical intelligence which will improve HMRC and Border Force's ability to identify and stop high harm goods being brought into the country and support the Government's objective of operating a

secure border. This measure will also ensure the UK meets its international obligations with respect to safety and security and treats all trading partners equally.

5.2 This instrument also enables HMRC to prescribe the safety and security information required for import and export (on ENS declarations and EXS declarations respectively) in a public notice. This simplifies the process for HMRC to modify and clarify the data requirements in line with the Government's objectives. The issuance of a public notice also provides a streamlined, single point of reference for businesses to clearly understand their safety and security obligations.

5.3 HMRC will use the public notice to reduce the data required to complete an ENS declaration on imports into GB and minimise the administrative burden for businesses. From 31 January 2025, there will be 20 mandatory fields needed for government risking to identify security threats. There will be up to 8 conditional fields which will need to be completed in certain circumstances. Businesses will have the option to submit an additional 9 fields if this is better for their dataflows or to give HMRC and Border Force additional assurance on the goods. Doing so will also reduce the chance of legitimate goods being held unnecessarily at the GB border. The full 37-data field set is the same as the previous requirements, so businesses who already submit ENS declarations will be able to maintain their existing processes if they choose to do so.

What was the previous policy, how is this different?

5.4 The previous Government took a phased approach to introducing requirements on imports from the EU, recognising the need to give businesses sufficient time to prepare and ensure supply-chains have time to adapt. As a result, a temporary waiver for ENS declarations has been in place since EU Exit for imports from the EU into GB. Maintaining this waiver would limit HMRC and Border Force's ability to risk-assess EU imports as they arrive in GB and would not be consistent with the UK's international obligations.

5.5 To date, the information required for safety and security purposes has been prescribed in assimilated EU law. The previous Government identified opportunities to reduce the administrative burden of complying with safety and security requirements, without undermining the UK's ability to secure the border.

6. Legislative and Legal Context

How has the law changed?

6.1 Safety and security legislation was retained EU law under section 3 of the European Union (Withdrawal) Act 2018 and is now assimilated law by virtue of the Retained EU Law (Revocation and Reform) Act 2023. The requirement to provide safety and security information on the entry and exit of goods by lodging a declaration is set out in assimilated law at Articles 127 and 263 of the Union Customs Code (Regulation (EU) No. 952/2013) with details about that obligation provided by Delegated Regulation (Regulation (EU) 2015/2446) and Implementing Regulation (EU) 2015/2447. This instrument amends regulations 2015/2446 and 2015/2447.

6.2 Waivers from import requirements are provided in specified cases in Article 104 of the Delegated Regulation. This instrument amends Article 104 to end the waiver in respect for imports into GB from the EU and associated territories.

6.3 Previously, the safety and security information required for imports and exports has been set out in Annex B of the Delegated Regulation. This instrument revokes Annex B and provides for the safety and security data requirements for imports and exports to be set out in a public notice made by HMRC.

6.4 This instrument is being made under section 166A of the Customs and Excise Management Act 1979 (CEMA), as inserted by the European Union (Future Relationship) Act 2020 and will amend assimilated EU law (as described above) which applied in Great Britain. Section 166C (6) of CEMA, which was also introduced by the European Union (Future Relationship) Act 2020, provides that a power to make regulations under section 166A of CEMA may be exercised by modifying any enactment (which includes assimilated EU law).

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has taken place on the full draft instrument. The measures in this instrument have undergone extensive engagement with stakeholders and other government departments.

7.2 The previous Government published the proposed safety and security model in the draft Border Target Operating Model in April 2023, and engaged with stakeholders over a 6-week period before the changes were finalised and published. Around 10,000 participants registered for government-led events related to the Border Target Operating Model, and the Government received over 200 written responses through the online submission process. HMRC has also undertaken a programme of readiness engagement, targeting both domestic and international stakeholders.

8. Applicable Guidance

8.1 Guidance on S&S declarations can be found on the GOV.UK website[1]. This guidance sets out the process and requirements for submitting safety and security declarations, including who is responsible for submitting and the data elements they need to include to be compliant. Ahead of this guidance being updated upon implementation of the policy change, a set of readiness guidance is published for stakeholders to use to prepare for the change[2]. Further changes will be made to clarify requirements for the commencement of this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

[1] Guidance on S&S declarations: https://www.gov.uk/guidance/safety-and-security-requirements-on-imports-and-exports

[2] Readiness guidance: https://www.gov.uk/government/publications/preparing-for-the-new-safety-and-security-declaration-requirements

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is outlined in full in the Impact Assessment. The requirement for an ENS declaration on imports into GB from the EU and associated territories creates a new cost to business. The minimum dataset required on an ENS declaration has been reduced to decrease the cost to comply with the requirements, while ensuring that government risking and targeting systems can operate effectively for security purposes. This measure has been designed so that businesses already submitting ENS declarations do not need to make any changes to their existing systems or procedures if they do not wish to.

9.3 The legislation does impact small and micro businesses. No specific action is proposed to minimise regulatory burdens on small or micro-businesses. ENS declarations are required across all movements for the policy to work effectively. HMRC have engaged extensively with traders, including small businesses, to prepare for the changes.

9.4 There is no, or no significant, impact on the public sector because the measures primarily impact businesses importing into the UK. HMRC will incur no, or no impactful, changes to costing.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 HMRC and Home Office will measure compliance with the requirements to ensure that the policy meets the intended objectives. HMRC will also continue its engagement with impacted stakeholder groups after the policy is enacted.

10.2 The instrument does not include a statutory review clause. As this instrument is not made by a Minister of the Crown, no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”). It does however relate to the withdrawal of the United Kingdom from the European Union because it amends assimilated EU law to modify safety and security procedures.