EXPLANATORY MEMORANDUM TO

THE DISCLOSURE OF EXPORTER INFORMATION REGULATIONS 2015

2015 No. 2060

1. Introduction

1.1 This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument authorises Her Majesty's Revenue and Customs to disclose the following information in relation to individual exporters and the goods they export:

- business name and address,
- commodity code,
- description of the commodity code covering the goods, and
- the month and year of export.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and includes Northern Ireland and is not a financial instrument that relates exclusively to England, Wales and Northern Ireland.

4. Legislative Context

4.1 Section 10(1) of the Small Business, Enterprise and Employment Act 2015 provides the Commissioners for Her Majesty's Revenue and Customs with a power to make these Regulations which authorise the disclosure of specified data in relation to the export of goods. The information will be obtained from customs declarations made by exporters to Her Majesty's Revenue and Customs.

4.2 Section 8 of the Finance Act 1988 already allows Her Majesty's Revenue and Customs to disclose specified data from customs declarations in relation to importers of goods.

4.3 Section 10(3) provides a limit on the information that may be disclosed under these regulations by confining the data that may be disclosed to a specified list of categories.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 The Commissioners for Her Majesty's Revenue and Customs have made the following statement regarding Human Rights:

In our view the provisions of The Disclosure of Exporter Information Regulations 2015 are compatible with the Convention rights.

7. Policy background

7.1 There has been an increase in demand from the public and private sectors for access to export information held by Her Majesty's Revenue and Customs. This information can be used to help efforts to boost exports by enabling appropriate services and support to be made available to a wider range of businesses and will create greater visibility of UK exporters, especially small and medium sized businesses, to new overseas customers.

7.2 The Commissioners for Her Majesty's Revenue and Customs Act 2005 does not, however, permit Her Majesty's Revenue and Customs to share this information and the absence of an alternative, reliable, publicly available data source has been highlighted as a constraining factor to the delivery of better export services.

7.3 To address this, Section 10 gives the Commissioners for Her Majesty's Revenue and Customs the power to make these Regulations to permit sharing of certain information on exports. This is tightly drawn and specifies the categories of information that may be disclosed under the regulations, and is limited to less sensitive but nonetheless useful information.

8. Consultation outcome

8.1 The consultation on sharing exporter information was published on 25 June 2014 and concluded on 19 September 2014. The consultation was run to provide interested parties with an opportunity to comment on the proposal to disclose certain information regarding exporters and the goods they export. The published summary of responses to the consultation is available here: https://www.gov.uk/government/consultations/sharing-and-publishing-export-data-for-public-benefit?1111

8.2 There were 15 responses to the consultation. Eight were in favour of publication, provided that sufficient safeguards were put in place. Five respondents were concerned that the publication of their identity and the sensitive nature of the goods they export may attract adverse interest in their activities. The remaining two were ambivalent.

8.3 Measures are already in place to deal with some of the concerns expressed. Specifically, Her Majesty's Revenue and Customs does not disclose information where there are three exporters or fewer in a given market, or where the goods exported are of a strategic or defensive nature. Additionally it will now be possible for exporters to apply to opt-out of publication arrangements by contacting Her Majesty's Revenue and Customs.

9. Guidance

9.1 A Revenue and Customs Brief will be issued to announce the changes brought about by these Regulations.

10. Impact

10.1 A Tax Information and Impact Note has not been prepared as no financial or regulatory impact on business, charities or voluntary bodies is foreseen.

10.2 The impact on the public sector will be the same as outlined in paragraph 10.1 above.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 This legislation is in line with the government's efforts to support small businesses. It will enable those who provide export services to identify more easily their customers and will make it easier for foreign buyers to identify appropriate UK suppliers and buy their products. This will help increase the export potential of small businesses. Her Majesty's Revenue and Customs will not charge for providing this information.

12. Monitoring & review

12.1 The outcome of the changes set out in this instrument will be monitored by Her Majesty's Revenue and Customs.

13. Contact

13.1 Mark Ellis at HM Revenue and Customs Telephone: 03000 593339 or email: mark.ellis@hmrc.gsi.gov.uk can answer any queries regarding the instrument.