EXPLANATORY MEMORANDUM TO

THE NATIONAL SECURITY ACT 2023 (FOREIGN ACTIVITIES AND FOREIGN INFLUENCE REGISTRATION SCHEME: PUBLICATION) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Dan Jarvis, Minister of State for Security at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 The Deputy Director of the State Threats Unit at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The FIRS policy team email: FIRS@homeoffice.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 sets out the information which will be published under the scheme in Part 4 of the National Security Act 2023 (c. 32) known as "the Foreign Activities and Foreign Influence Registration Scheme". The instrument includes details about which categories of registered information will be published, the period for which it will remain on the public register, and exceptions to publication.

4.2 The publication of information will be important to ensuring that the scheme achieves its transparency benefits, by allowing the public to be informed of foreign power influence in the UK's democracy.

Where does the legislation extend to, and apply?

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

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The National Security Act 2023 is designed to make the UK a harder target for states who seek to conduct hostile acts against the UK. It ensures the UK law enforcement

and intelligence agencies have the modern tools, powers, and protections they need to tackle these threats.

5.2 The Foreign Activities and Foreign Influence Registration Scheme, contained within Part 4 of the National Security Act 2023 ("the 2023 Act"), is one of the measures which will tackle these threats. It has been created following a recommendation by the Intelligence and Security Committee in its 2020 Russia Report.[1] It aims to increase transparency of foreign power influence over the UK democracy and provide greater assurance about the activities of specified foreign powers, and specified entities controlled by foreign powers, which pose the greatest risk to the UK. It will do this by requiring individuals or organisations to register with the Secretary of State where they form certain arrangements with foreign powers or carry out certain activities in the UK. This will therefore strengthen the integrity of UK politics and institutions and protect the UK from state threats.

5.3 The scheme itself is split into two parts: the "political influence tier" (sections 69 to 72 of the 2023 Act) and "the enhanced tier" (sections 65 to 68 of that Act). The political influence tier will require individuals or organisations to register where they are directed by a foreign power to carry out, or arrange for others to carry out, political influence activities in the UK. Certain information related to registered arrangements will be included on a public register. This will increase transparency of foreign power influence over UK democracy.

5.4 The enhanced tier of the scheme contains a power enabling the Secretary of State to specify foreign powers, or foreign power-controlled entities, where it is considered necessary to protect the safety or interests of the UK. It can then require those being directed by a specified foreign power, or foreign power-controlled entities, to register activities that they carry out, or arrange for others to carry out, in the UK. It can also require specified foreign power-controlled entities to register activities which they carry out themselves in the UK. This will provide a greater assurance of the activities of the foreign powers which pose the greatest risk.

5.5 Certain information regarding political influence activities registered under the scheme will be included on a public register, in order to ensure that the public has visibility over foreign power influence in the UK, which may impact on how they exercise their democratic rights. This instrument sets out the information to be published, which is limited to that which is necessary to allow the scheme to achieve its transparency benefits. This will include certain details related to the registrant, details of the foreign power directing the activity, information about the arrangement with the foreign power, and details related to the activities to be carried out. Certain types of personal data, such as dates of birth, passport details, addresses, and contact details will not be included on the register in order to protect individuals' privacy.

5.6 This instrument states that there are certain circumstances in which information which would normally be published in line with paragraph 5.5 should be excepted from publication. This is where publication would be prejudicial to the safety or interests of the UK or to the prevention of crime, a criminal investigation, or criminal proceedings, where it would put an individual's safety at risk and where it could result in the disclosure of commercially sensitive information.

[1] https://isc.independent.gov.uk/wp-content/uploads/2021/01/20200721_HC632_CCS001_CCS1019402408-001_ISC_Russia_Report_Web_Accessible.pdf

5.7 In order to achieve the transparency objectives of the scheme, it is important that information is retained on the public register for a sufficiently long period, to enable trends and patterns of foreign influence to be monitored over time. This instrument therefore sets out that information will be retained on the register for 10 years after the end date of activities, or indefinitely where an end date is not provided, as was set out in the public consultation on the scheme guidance. The Case Management Team will regularly review published information to identify if it should continue to appear on the register, including where they have a reason to believe an open-ended arrangement ceased more than 10 years ago.

What was the previous policy, how is this different?

5.8 This statutory instrument relates to a brand new scheme, which has no precedent in the UK. There has not previously been a scheme with the aim of increasing the transparency of foreign power-directed influence in the UK.

6. Legislative and Legal Context

How has the law changed?

6.1 As the Foreign Activities and Foreign Influence Registration Scheme is a brand new scheme, no previous legislation has made provision about the publication of information under the scheme. This instrument therefore, for the first time, sets out the information which will be published and the length of retention of information on the public register.

6.2 The instrument will come into force when Part 4 of the 2023 Act comes into force. A separate commencement instrument will be made to bring Part 4 into force.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes. The design of the scheme in the 2023 Act provided for these details, which are required for the commencement of the scheme, to be set out in secondary legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government held a public consultation from 8 September 2023 to 1 December 2023, which sought feedback on the exceptions to publication, retention of information on the public register and exemptions from the scheme. The policy decisions made as part of the development of this instrument reflect feedback received as part of the consultation.

7.2 The consultation proposed the introduction of exceptions to publication for where publication would be prejudicial to national security, where it would put an individual's safety at risk, and where it would involve the disclosure of commercially sensitive information. It also proposed a 10-year retention period for information on the public register. A total of 18 responses were received, including from academia, business, charity, and legal sectors. Respondents asked questions on how the proposed exceptions to publication would apply, in particular, in the context of those campaigning on human rights issues. Some respondents suggested that the proposed 10-year retention period was excessively long.

7.3 A consultation response setting out the Government's position on the policy consulted on has been published on gov.uk.[2] This sets out that the Government will retain broadly the same position as set out in the consultation document with regards to exceptions to publication and retention of information on the public register. The Government has, however, expanded the exception to publication related to national security to cover circumstances where publication would be prejudicial to the safety or interests of the UK. This is intended to ensure that sensitive information which could be harmful to a broader range of UK interests, including national security, economic interests, and defence interests, will not be revealed through publication. The Government has also included further detail in guidance on the exception for where an individual's safety could be at risk, including how it relates to human rights defenders where they, or their family or associates, may come to harm in their home country as a result of publication.

7.4 The Home Office has also held consultation panels with representatives from the media sector, legal sector, business, finance, consultancy and lobbying sectors, and research, academia, and higher education sectors. Panel members provided constructive feedback about how the requirements may impact on their respective sectors, including common scenarios within the sector in which registration may be required, and this feedback has been used to created targeted sector-specific guidance.

8. Applicable Guidance

8.1 Guidance on compliance with the Foreign Activities and Foreign Influence Registration Scheme, including the information which will be published, exceptions to publication, and retention of information on the public register has been published alongside this instrument and is available on gov.uk[3].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has been published in relation to the scheme as a whole, and not for this specific instrument as it does not in itself have a significant impact on individuals or organisations.[4]

Impact on businesses, charities, and voluntary bodies

9.2 The impact of this instrument on businesses, charities, or voluntary bodies is minimal. Under the primary legislation, only businesses, charities, or voluntary bodies which are being directed by foreign powers or specified persons to carry out registerable activities in the UK will be required to register. The vast majority of the activities of businesses, charities and voluntary bodies will not fall in scope.

9.3 Whilst some concerns have been raised about the reputational impacts of appearance on the public register, the Government is clear and will continue to be clear in communications that those who appear on the register are supporting the aims of the scheme, by being open and transparent about their arrangements with foreign powers.

[2] https://www.gov.uk/government/consultations/foreign-influence-registration-scheme-draft-guidance.
[3] https://www.gov.uk/government/collections/foreign-influence-registration-scheme
[4] https://www.gov.uk/government/publications/national-security-bill-overarching-documents/impact-assessment-foreign-influence-registration-scheme-accessible

9.4 The instrument does impact small or micro businesses. However, this instrument does not amend the scope of the primary legislation. We consider that the majority of small and micro businesses will not have to register. The scheme will only apply where a business is being directed by foreign powers or specified persons to carry out registerable activities in the UK.

9.5 It is not possible to exempt small or micro businesses from the legislation as to do so would allow state actors to channel covert activities through these businesses and thus evade the legislation. However, the Government has engaged trade and industry bodies which represent small and micro businesses and has published guidance related to their sector which clearly explains the requirements on them.

9.6 There is no, or no significant, impact on the public sector. The set-up costs of administering the scheme as a whole are detailed in the published impact assessment, and this instrument has no impact on those costs.[5]

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The provisions of the 2023 Act and, by extension, the provisions of this instrument, will be subject to the normal post-legislative review three to five years after Royal Assent.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 A number of other instruments related to the Foreign Activities and Foreign Influence Registration Scheme are being laid within a similar timeframe. These include a negative statutory instrument setting out the information required at registration, affirmative statutory instruments specifying foreign powers and other persons under the enhanced tier and an affirmative statutory instrument providing for further exemptions from the scheme.

11.2 Information regarding political influencing activity targeted at Parliamentarians may be published under the scheme.

12. European Convention on Human Rights

12.1 The Security Minister has made the following statement regarding Human Rights:

"In my view the provisions of The National Security Act 2023 (Foreign Activities and Foreign Influence Registration Scheme: Publication) Regulations 2025 are compatible with the Convention rights."

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").

[5] https://www.gov.uk/government/publications/national-security-bill-overarching-documents/impact-assessment-foreign-influence-registration-scheme-accessible