

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL SECURITY ACT 2023 (CONSEQUENTIAL AMENDMENTS OF**  
**SUBORDINATE LEGISLATION) REGULATIONS 2023**

**2023 No. 1267**

**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. Purpose of the instrument**

- 2.1 This instrument makes consequential amendments to a number of enactments in connection with the commencement of the National Security Act 2023 (“NS Act”)

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This statutory instrument includes amendments to UK legislation, as well as Scottish, Welsh and Northern Irish legislation.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) varies between provisions. Some of the provisions that it amends do not apply to the whole of the UK. For example, amendments to the Police Pensions Regulations 1987 do not apply in Northern Ireland. This instrument also makes amendments to devolved legislation, such as the Firefighters’ Compensation Scheme (Scotland) Order 2006.

**5. European Convention on Human Rights**

- 5.1 The Minister of State for Security, Rt Hon. Tom Tugendhat, has made the following statement regarding Human Rights:

“In my view the provisions of the National Security Act 2023 (Consequential Amendments of Subordinate Legislation) Regulations 2023 are compatible with the Convention rights.”

**6. Legislative Context**

- 6.1 Under section 95 (*power to make consequential amendments*) of the NS Act the Secretary of State has the power to make consequential amendments by regulations (statutory instrument) in Parliament. There are numerous references across the statute books to the Official Secrets Acts 1911, 1920 and 1939 which are repealed by the NS Act, and replacement references are required. Consequential changes are also required in relation to other provisions in the NS Act such as the creation of new police

powers. While some consequential amendments are made by Schedule 18 (*minor and consequential amendments*) to the NS Act, the power co-enables any further amendments to be made as a consequence of the provisions in the NS Act. National Security Act 2023 (Consequential Amendments of Primary Legislation) Regulations 2023 contain amendments to primary legislation. These consequential Regulations include amendments to subordinate legislation and therefore are subject to the negative procedure. These Regulations are made in reliance upon section 13 of the Interpretation Act 1978.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The NS Act, which received Royal Assent on 11 July 2023, is a response to the threat of hostile activity from states targeting the UK's democracy, economy and values. The NS Act will provide our world class law enforcement and intelligence agencies with new and updated tools to deter, detect and disrupt modern threats. The Act also introduces a new Foreign Influence Registration scheme, which will bring greater transparency by requiring registration of foreign influence in our political system and registration of a broader set of influence activities from specified foreign powers.
- 7.2 Part 1 of the Schedule to these Regulations makes consequential amendments to pensions regulations and similar schemes. The purpose of these changes is to add to the existing references to the Official Secrets Acts 1911, 1920 and 1939 by including references to relevant sections of the NS Act.
- 7.3 Part 2 of the Schedule to these Regulations makes amendments to other subordinate legislation. This includes further amendments required to account for the repealing of the Official Secrets Acts 1911, 1920 and 1939. Other amendments in Part 2 are relevant to specific aspects of the NS Act, such as replacing the reference to prohibited places regime in the Official Secrets Act 1911 with reference to prohibited places under the NS Act. This is the case in the amendment to REACH (Registration, Evaluation, Authorisation and restriction of Chemical) Enforcement Regulations.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 None.

## **10. Consultation outcome**

- 10.1 No formal consultation was undertaken on these consequential amendments as they make technical and minor amendments that are consequential to provisions of the 2023 Act which were scrutinised by Parliament.

## **11. Guidance**

- 11.1 No guidance is required in respect of this instrument.

## **12. Impact**

- 12.1 There is no impact on business, charities or voluntary bodies.

- 12.2 There is no impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument. An Impact assessment has been prepared in relation to the NS Act. [A copy of the relevant impact assessment for the NS Act is available at Impact Assessment \(publishing.service.gov.uk\)](#). Paragraph 92 of this assessment notes the limited impact this legislation will have on government, business or the general public. Hard copies of the impact assessments can be obtained by writing to the State Threats Unit, Homeland Security Group at the Home Office, 2 Marsham Street, London, SW1P 4DF.
- 13. Regulating small business**
- 13.1 The legislation does not apply to activities that are undertaken by small businesses.
- 14. Monitoring & review**
- 14.1 The provisions of the NS 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.
- 15. Contact**
- 15.1 National Security Consultations team at the Home Office [nationalsecurityconsultations@homeoffice.gov.uk](mailto:nationalsecurityconsultations@homeoffice.gov.uk) will answer any queries regarding the instrument.
- 15.2 The Deputy Director for the State Threats Unit at the Home Office can confirm that this explanatory memorandum meets the required standard.
- 15.3 The Rt. Hon. Tom Tugendhat MP, the Minister of State for Security at the Home Office can confirm that this explanatory memorandum meets the required standard.