



Cabinet Office

Guide to Preparing Explanatory Memoranda (EMs) to Statutory Instruments

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1. How to use this guide

- This guide has been produced to support the drafting of a good quality Explanatory Memorandum (EM). It sets out how to approach drafting EMs, and gives advice on what should be included within them and why.
- EMs must meet high standards. The Government is committed to providing high quality information to the public, and Parliament scrutinises EMs to ensure they meet standards of detail and clarity.
- All EMs follow the same template. You should write directly into the template – do not cut and paste. This helps with consistency and also ensures that the correct formatting is used. Parliament may refuse to lay an SI where there are issues with the formatting of its accompanying EM.
- Common issues affecting EMs include providing insufficient information, using unnecessary or undefined technical language, making excessive references to external sources, and failing to evidence claims made.
- For more information on EM best practice, see the Secondary Legislation Scrutiny Committee's (SLSC) [Top Ten Tips for a Good EM](#). Legal guidance for civil servants is available on [GLD Digital](#) (Government email address required).
- EMs are usually published along with other supporting documents such as Impact Assessments and post implementation reviews (of older iterations of the instrument). For more information on these, consult the [Better Regulation Framework](#).
- Your parliamentary branch and SI lead can advise on the end-to-end SI process. Introductory secondary legislation e-learning is available on [Civil Service Learning](#) (Government email account required). The Parliamentary Capability Team in the Cabinet Office runs [a training course on EMs](#) for civil servants.
- If you require help or clarification about the content of an EM, you should contact your drafting lawyer(s), departmental parliamentary clerk or SI lead.
- If, having followed the instructions in this guide, you find that you are having issues formatting your EM, you should email the Legislation Services team at: SIRegistrar@nationalarchives.gov.uk.

2. Explanatory memoranda: basic principles

What is an EM?

- Legislation is often complex and highly technical. An EM provides an overview of the effect of secondary legislation and why it is necessary. EMs should be written in plain English and be neutral in tone. They ensure anyone reading them, with no prior knowledge, can understand what the law does and why.
- As well as helping the public to understand the law, EMs support Parliament in scrutinising the Government. Parliament draws on the information and evidence provided in EMs to inform debate and decision.
- Given the above, Parliament pays close attention to the quality of EMs; low quality EMs can lead to regret motions in the House of Lords, and may even delay the passage of the legislation.

When is an EM required?

- EMs are required for all statutory instruments (SIs) subject to parliamentary procedure. This includes draft, made and proposed instruments.
- Other types of secondary legislation that are not SIs but are subject to parliamentary procedure, such as statutory Codes, Immigration Rules, and some National Policy Statements, also require an EM.
- In some cases, an EM may be appropriate for instruments with no parliamentary procedure. For example, where the instrument's provisions are unusual, complicated or a matter of wider public interest.
- If you are unsure whether an EM is required, you should contact your drafting lawyer(s), SI lead, or parliamentary branch.

3. Process for submitting and revising an EM

Submitting an EM

- EMs are ordinarily uploaded on legislation.gov.uk. They are uploaded at the same time that an SI is registered and should be laid alongside the SI. If the EM accompanies secondary legislation that is uploaded to GOV.UK (e.g. Immigration Rules) it should also be published on GOV.UK. When SIs are uploaded, they are publicly available.
- All EMs must be signed off by a Senior Civil Servant and a departmental minister.
- Before submission to The National Archives, it is vital that you proofread and check the formatting. You should ensure all tracked changes have been accepted and comments resolved.
- The EM contains headline information on the anticipated impact of legislation. If your SI meets the threshold for a full Impact Assessment, it should be uploaded separately and not as an annex to the EM. Further information on when an Impact Assessment is required is included below.
- Once the SI is laid, the SLSC will consider it. The SLSC's advisers may contact your department directly about your EM when clarifying, clearing or drawing it to the attention of the House. Their reports are published on parliament.uk.

Revising an EM

- If an EM contains an inaccuracy or must otherwise be amended, the procedure to follow varies according to the degree of change required.
- For minor typographical errors, the original EM can be replaced with a “corrected EM”. Your SI lead or parliamentary branch can advise whether changes warrant a corrected EM.
- For substantive amendments, a new “revised EM” must be produced. This will be published *alongside* the original EM. The SLSC must be notified when substantive changes are made.
- [The Guide to Laying Papers](#) sets out circumstances when corrected and revised EMs must be laid before Parliament.

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- If you are unsure whether your changes require the EM to be treated as “corrected” or “revised”, contact the SI Registrar at The National Archives (SIRegistrar@nationalarchives.gov.uk).

Producing a single EM for multiple SIs

- An EM may be used for a single SI, or a group if they are linked and being laid on the same day.
- Where one EM covers a group of SIs, it is important to explain how each individual SI contributes to the overall policy objective.
- When submitting negative SIs with a shared EM, use the legislation.gov.uk publishing service to request numbers in advance, as this will ensure the SIs are numbered sequentially.
- You should enter the numbers issued into the SI(s) and EM before you upload the documents for registration, and you must submit a copy of that joint EM with every linked SI.
- Advance numbers do not apply for draft SIs with a shared EM, or any SI subject to the affirmative procedure.

4. Drafting an Explanatory Memorandum

- The guidance below follows the structure of the Explanatory Memorandum template. While the EM template is not revised regularly, you should ensure you have the latest version, which is available on GOV.UK. Do not attempt to adapt an old template as there are many differences throughout the document. Some sections of the EM template may not apply to every SI. However, you should only delete parts that are not applicable when the template instructs you to do so.
- A style guide is included in section 6 of this document. You should follow the guide to ensure EMs are consistent and to avoid formatting errors, especially when linking to external documents.
- The guidance contains tick boxes (☐) for information that an EM typically requires, and can therefore be used as a checklist, and bullet points (•) with additional tips.

Throughout the document, information boxes like this provide background information and further detail, such as where to source information.

Naming an EM

- The EM for all made, draft and proposed SIs must have the heading “EXPLANATORY MEMORANDUM TO”, plus the title of the instrument in full, including the “THE” at the beginning of the title (with the exception of SI titles that start with “HIS MAJESTY’S”), and the year at the end of the title. Enter the SI number if it is available (e.g. with an advance number) or else leave the text as “XXXX” for the SI Registrar to complete post-registration.

1. Introduction

This section is intended to introduce the EM and highlight any specific intended audiences. The section is formulaic; you should select the applicable option from those provided in the EM template.

Paragraph 1.1

- ☐ Enter the name of the department that is laying the instrument, and select whether the instrument will be laid before both Houses of Parliament or just

the House of Commons.

When might an SI be Commons-only?

The Act of Parliament which created the power to make the secondary legislation ("the enabling Act") determines the parliamentary procedure to which that legislation is subject. However, Commons-only procedure is typically used for SIs subject to financial privilege. Financial privilege is the special right of the House of Commons to decide public taxes and spending. Your drafting lawyer(s) can advise if this applies to your SI.

- ☐ Select whether the SI will be laid "by Command of His Majesty", or, less typically, "in accordance with [Insert Act]".

When is an SI laid "in accordance with" an Act?

An EM is usually laid "by Command of His Majesty". The only present exception is when an SI is laid for "sifting", for example as required for SIs made under the Retained EU Law (Revocation and Reform) Act 2023. Once sifted by the relevant Committees and re-laid, the SI is laid "By Command of His Majesty".

Paragraph 1.2

- ☐ Select the relevant option from the template depending on whether the EM contains matters of special interest to Parliament. Otherwise, the paragraph should be deleted. Examples of matters commonly of special interest to Parliament are provided in **Paragraph 11.1** of this guidance.

2. Declaration

This section specifies the Senior Civil Servant and Minister accountable for the content of the EM.

Paragraph 2.1

- ☐ Insert the name, title and policy area of the accountable minister.

Paragraph 2.2

- ☐ Insert the name, grade and policy area of the Senior Civil Servant who signed off the EM.

3. Contact

Each EM should have a named contact responsible for responding to any queries on the EM and the legislation itself. The contact should be the person who can directly answer questions about the instrument. For example, the policy lead.

Paragraph 3.1

- ☐ Provide a named contact, and email address that can be used to contact the relevant official.
 - A nominated official should be named so that there is a clear point of contact for any queries.
 - A generic/shared mailbox (e.g. emqueries@department.gov.uk) is preferred to a direct email address. This is to ensure queries reach the appropriate team when the official is not available or changes role.
 - The mailbox you provide must be monitored frequently to ensure that any queries are resolved in a timely manner. Select committees rely on timely, often same-day, responses as the time available to scrutinise instruments is limited.
 - You should also provide the telephone number of your departmental correspondence team. This ensures anyone without internet access to contact the department with queries.
 - If you have any concerns with naming an official, please contact the SI Registrar.

Part 1: Explanation, and context, of the Instrument

4. Overview of the Instrument

The purpose of this section is to provide a concise, non-technical explanation of what the legislation does and why. The section should be drafted with a non-expert audience in mind.

Paragraph 4.1

- ☐ Using plain English, concisely set out what the legislation will do once in force and why the legislation is needed.
 - The explanation should focus on the practical impact, i.e. what will change as a result of the legislation and how the legislation seeks to bring this change about and why it is needed.
 - Define any acronyms and necessary technical language.
 - There is no need to provide a clause-by-clause narrative of the legislation, or reference the specific legal powers under which the instrument is made.
 - Cross-references should only be made to other instruments if they are in a group or series.

Paragraphs 4.2 and 4.3

- ☐ Insert the instrument's territorial extent and application.
 - If there are complexities, for example the powers used pre-date devolution settlements, these should be explained at paragraph 11.1.

Territorial extent vs. application

Extent and application sometimes differ. Extent refers to the jurisdiction(s) in which the legislation forms part of the law; application is where it produces a practical effect. The extent will be specified within the instrument; the application is not always specified in the instrument. If you are in doubt, consult your drafting lawyer(s).

5. Policy Context

This section provides readers with the context and policy justification for the legislation. It should explain the rationale for the policy, including the background that informed the decision to legislate, the choices that led to the particular policy content, and the desired policy outcome.

The SLSC scrutinises the policy objective and proposals for the implementation of an SI, so an EM needs to provide sufficient information for them to undertake that task. Similarly, the JCSI needs to understand the policy objective to analyse whether the drafting meets that objective in technical terms. The Committees may draw EMs that provide inadequate explanation and/or evidence for the policy to the attention of the House(s).

Paragraph 5.1

- ☐ Start this paragraph by describing the current situation to situate the change to the law in context.
- ☐ State the ultimate policy objective, the reason that objective is pursued (e.g. an obligation in the parent Act, international obligation, Government priority), and how the legislation fulfils the objective.
- ☐ Explain why the legislation is expected to lead to change, what degree of change is expected (e.g. “this aims to reduce the sale of single-use plastic by 10% over the next 3 years...”¹).
- ☐ The benefits and risks of introducing the change should also be set out. For example, if the measure is de-regulatory, explain what the benefits and risks of reducing regulation in this area are and why the benefits outweigh the risks.
- ☐ Detail the nature and scale of the problem that the legislation is addressing, and the degree of public interest (e.g. as understood from the volume of consultation responses, or broader media coverage).
 - Ensure all claims are accurate, and that supporting evidence is provided wherever possible.
 - Existing legislation, schemes or processes must be explained, not just referenced; the reader should not need to refer to further documents to understand what the legislation is doing.

¹ This example is purely illustrative.

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- Departments should be aware that there is a duty on Ministers of the Crown in [section 19](#) of the Environment Act 2021 to have due regard to the environmental principles policy statement when making policy, including proposals that lead to legislation. The [policy statement](#) explains how to interpret and proportionately apply the principles that will contribute to the improvement of environmental protection and sustainable development. The five principles are: integration, prevention, rectification at source, polluter pays, and the precautionary principle. You should contact environmental.principles@defra.gov.uk for further information.

If the legislation...

- ☐ amends an existing scheme or process, justify the need for the change and outline how it is expected to produce improvements. Where applicable, draw on material from post implementation reviews;
- ☐ includes a power to legislate further, explain why it is needed to deliver the intended policy objective;
- ☐ creates a new offence, justify the need for the offence and the penalty applied;
- ☐ covers multiple policies (e.g. “Miscellaneous Amendments”), the EM should address each broad area. The structure of the SI should guide the structure of this section. Where this is not possible, create your own groupings to allow for a thematic presentation of the policies.

Paragraph 5.2

- ☐ Outline Government policy before the legislation and set out the ways (in policy terms) it is changed by the new legislation.
 - Avoid technical or process-focussed explanation; focus on the tangible impact of the policy change.
 - When referring to previous policy, include the wider context for why this policy was in place before setting out how the SI changes or updates it.
- ☐ If there was no previous policy, state this and explain why.

6. Legislative and Legal Context

Where the previous section details the policy context, this section should focus on the legislative background, note changes brought about by the SI, and highlight any relevant legal issues. You should ensure this section is either written or reviewed by your drafting lawyer(s).

Paragraph 6.1

- ☐ Outline the legislative context and how it is changed by the legislation.
- ☐ Identify how the legislation operates (e.g. a free-standing amendment, repeal and replace under the Retained EU Law Act 2023) and set out its intended impact on the statute book.
- ☐ Explain the legal effect of the legislation, for example, to implement a new Act or international obligation, or to give effect to an annual uprating.
- ☐ Highlight any relevant judicial activity such as judicial review(s) or judgments that have given rise to the instrument or informed its approach.
- ☐ Justify why legislation is required, noting where other avenues (e.g. non-statutory codes of practice) were explored.
 - A reference to the enabling power is only required if there is a specific reason to do so (e.g. if this is the first use of a power under an Act or the power is being used in a novel way).

If the legislation...

- ☐ relates to any other instruments (i.e. it is one of a group, or part of a series of instruments), cross-reference them here;
- ☐ relates to any specific undertakings that have been given to Parliament, reference these. You should include a link, using a footnote not a hyperlink, to Hansard or the relevant report;
- ☐ paves the way for future instruments, indicating what they will do and when they are likely to be brought forward, set this out. You should not commit to specific laying dates without clearance from the Whips' Offices;
- ☐ relates to the Windsor Framework, or may otherwise have interactions with Article 2 of the Windsor Framework, contact the Windsor Framework Taskforce (wfpolicy@cabinetoffice.gov.uk) in the first instance.

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Paragraph 6.2

- ☐ Indicate whether this is the only possible way in which the law could be changed or explain why this particular legislative approach was taken. This may involve, for example, explaining why an SI is being amended, rather than re-made, or why a free-standing instrument is being made.
- ☐ Highlight if any specific commitments were made to Parliament to legislate in a certain way, including any relevant Hansard or report reference.
 - The explanation should provide a balanced narrative, noting the options considered, while justifying the Government's final approach.

7. Consultation

This section provides further background by highlighting any consultation, whether formal or informal, that informed the instrument. It should summarise the consultation, methodology and outcome, and relate this to the policy and legislative approach that has been taken.

The SLSC takes a particular interest in the consultation section; a good summary can prevent further questions slowing the progress of an SI.

Paragraph 7.1

- ☐ For each consultation, briefly set out what was asked, who was consulted, and how the consultation took place.
- ☐ Summarise the overall results. Include any major objections that arose during consultation, before setting out and justifying the Government's response.
- ☐ Link, using a footnote, to the published consultation and Government response (which should be available on GOV.UK) once the instrument is laid before Parliament. If it has not yet been published, indicate when it will be available.
- ☐ Note where the Government has formally consulted, or sought agreement, on the content of SIs with the devolved governments and summarise their response and whether or not any changes were made as a result of it.
- ☐ Highlight where significant changes have been made to the policy or legal approach of the instrument after consultation.
- ☐ If a consultation was not undertaken, justify why.
 - This paragraph must provide a balanced account of the consultation process and outcome, and should accurately reflect the Government's approach to major comments or objections that arose.

Consultations with the devolved governments

The Government may formally consult, or seek agreement, on the content of SIs with the devolved governments. While this is sometimes a statutory requirement, in other cases it is because a minister has made a political commitment to consult or seek consent.

8. Applicable guidance

When legislation is accompanied by guidance, it should be made publicly available when the instrument is laid. Not doing so will likely lead to criticism and prevent the public from familiarising themselves with any guidance before an instrument comes into force. This section serves as a signpost to this guidance.

Paragraph 8.1

- ☐ Link, using a footnote not a hyperlink, to applicable guidance, or indicate the date by which it will be available and where it will be published. If the SI does not implement or require guidance, state this.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

This section gives readers a brief overview of the expected impact of the instrument, focussing primarily on the forecasted economic effects on different groups. An overview of the anticipated impact should be provided, and all claims must be evidenced.

Paragraph 9.1

- ☐ Depending on whether an Impact Assessment (IA) has been completed, choose the applicable option from the EM template. Where an IA has not been completed, provide the reason(s) why this is the case (e.g. low level of impact per business, not many businesses affected, SI maintains existing standards).
- ☐ If you are using an IA originally published for the related primary legislation, state that you are doing this. You should ensure it is up to date and reflects the specific impacts of the SI.
- ☐ Regardless of whether it meets the threshold for an IA or Options Assessment, the financial impact of the SI, where it is known, should be provided. If there is no cost, explain why.
 - The SLSC takes a particular interest in understanding the impact of an SI, including where an IA is not required.
 - Even when the impact of an SI falls below the threshold for an IA, it is nonetheless valuable to set out the impact that is expected. This is especially true when the impact relates to particular groups or sectors. This should be explained in qualitative terms where quantitative estimates are not available.
 - For example, “This legislation broadens the Freedom of Information Act 2000, extending it to three new agencies. The Department estimates that this will generate a further 1000 requests from the public annually. Figures from 2014 indicate the average administrative cost of an FOI request is £240; thus the maximum cost to industry and the public sector will be £240,000. The benefits are from increased public accountability and transparency but are not easily quantifiable.”

Impact Assessments (IAs)

IAs appraise the economic impact of legislation. They are required for all regulations where impacts are greater than \pm £10 million Equivalent Annual Net Direct Cost to Business (EANDCB). An IA is a different document from an EM and must be uploaded to legislation.gov.uk separately. For more information, refer to the [Better Regulation Framework](#).

Paragraph 9.2

- ☐ Make the applicable selection from the options in the EM template.
- ☐ Where there is an anticipated impact, you should include the headline costs, benefits and who is affected, as well as a summary giving the overall net effect. All claims should be evidenced.
- ☐ Where you anticipate no, or no significant, impact on business, charities or voluntary bodies, justify why you do not expect this.

Paragraph 9.3

- ☐ Make the applicable selection from the options in the EM template.

Paragraph 9.4

- ☐ If significant impacts are expected, include the applicable wording from the EM template and set out the approach to mitigating these, providing supporting evidence where relevant.
- ☐ If impacts on small businesses are not expected, delete the paragraph.

Paragraph 9.5

- ☐ Make the applicable selection from options in the EM template.
- ☐ If a significant impact is expected, provide an outline of the headline costs, benefits and who is affected, as well as a summary giving the overall net effect. All claims should be evidenced.
- ☐ If no significant impact is expected, justify why this is the case.

10. Monitoring and review

This section should give an overview of the general approach to reviewing the SI, and outline how the SI complies with legal obligations for monitoring and review.

Paragraph 10.1

- ☐ Explain when the SI will be reviewed and how this review will take place.
- ☐ Check whether there is any guidance or practice relating to the review of the instrument which accounts for why a particular approach has been taken.
 - In some policy areas, there is a general approach to reviewing legislation (e.g. through annual reports or sectoral engagement).
 - In other cases, monitoring and review is not considered necessary. This should be justified in accordance with the Small Business, Enterprise and Employment Act 2015. You should be mindful, if using a combination of powers, that this may alter whether a review clause exemption applies.

Review provisions

Sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 place a duty on Ministers to ensure that secondary legislation that creates or amends regulatory provisions that relate to a business activity includes a statutory review provision. If a review provision is not considered appropriate, the Minister is required to publish a statement justifying this decision.

The Department for Business and Trade has published statutory guidance on what departments should consider when deciding whether a review provision is appropriate, which is published on [GOV.UK](https://www.gov.uk/government/guidance/statutory-guidance-on-review-provisions).

Paragraph 10.2

- ☐ Select the applicable option from the EM template.
- ☐ If a review is not required, use the free text to reproduce the ministerial statement setting out why a review clause is not included.
- ☐ If the SI is made under the relevant European Union Acts (see Section 13 of this guidance), delete this paragraph of the template.

Paragraph 10.3

- ☐ If this instrument is made under certain European Union Acts, a review clause is not required. If this is the case, ensure **Paragraph 10.2** is deleted and insert the wording from **Paragraph 10.3** of the EM template.
- ☐ If the SI is not made under the relevant European Union Acts, delete this paragraph.

Part 3: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest

Some matters are reliably of interest to Parliament, principally the Secondary Legislation Scrutiny Committee (SLSC), the Joint Committee on Statutory Instruments (JCSI) and the departmental select committee in the House of Commons undertaking sifting. This section brings these matters together to allow for easy reading by Parliament and the public. Although this section may repeat details elsewhere in the EM, the information should be provided in full, avoiding cross-references.

Paragraph 11.1

- ☐ Outline any information that is of special interest to Parliament. This includes if the information is being laid for sifting by the Sifting Committees. If there are no matters of special interest, state this.
 - You should consider this in the broadest of senses and think holistically about matters which may interest the Committee(s). Typical examples of matters of interest are set out below, however this list is not exhaustive. What to include is ultimately a judgement between the drafter of the EM and the drafting lawyer(s).

The work of the JCSI and SLSC

The JCSI considers the drafting of instruments. The SLSC considers the underlying policy of an instrument.

- ☐ Further information to bring to the attention of the Committees may include:

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- **Fee increases:** justify any increases above the rate of inflation. State whether increases are also consistent with maintaining cost recovery, and, if further increases are planned, note when they will cease.
- **21-day rule:** the 21-day rule is a convention that holds that legislation subject to the negative procedure should be laid before Parliament at least 21 days before it comes into force. It should only be breached when strictly necessary (see [Statutory Instrument Practice](#) for further information). If the instrument breaches the rule, set out why the policy requires such urgent action and what the consequences of delaying the legislation to comply would be.
- **If the instrument comes from a commitment made to Parliament:** identify how the instrument fulfils the commitment and provide a link to Hansard, using a footnote.
- **If the instrument came into force before it was laid:** explain the circumstances, and indicate the date on which a notification and explanation were sent to the Speakers of the House of Lords and House of Commons (as required by the proviso to [section 4\(1\)](#) of the Statutory Instruments Act 1946).
- **If the instrument makes retrospective provision, sub-delegates, or amends primary legislation:** state and explain the circumstances for this. You should also set out the powers which are being relied on to achieve this.
- **If the instrument relies upon section 13 of the Interpretation Act 1978:** [section 13](#) allows powers to be exercised before they have come into force and can avoid the need for too many commencement SIs. You should highlight when an SI relies upon this provision.
- **If the instrument uses novel, especially complex powers or could be considered unusual:** explain the basis for any novel or complex powers and indicate the reason for their use. Explain the function and rationale behind any unusual elements. For example, if the instrument is a commencement order that is subject to parliamentary procedure, explain its genesis.
- **If the SI introduces duties, but the enforcement mechanisms are not included in the SI itself:** rarely, an SI will introduce a new duty whose enforcement mechanism exists in other legislation. In such cases, set out how compliance to any duties will be ensured, referring to where enforcement mechanisms exist where this is not immediately evident from the text of the SI.

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- **If the instrument corrects errors previously reported by the JCSI:** state this; provide the reference of the instrument corrected and the relevant JCSI report in footnotes.
- **If the instrument revokes and replaces, or replaces a withdrawn affirmative instrument:** explain why the instrument is being replaced. If it is in relation to an error, the detail of the error should be set out.
- **If the instrument relates to other SIs that are being laid in a similar timeframe:** set out how the SIs relate to each other and, if applicable, why they have been sequenced in a particular way.
- **If this instrument has already been sifted:** summarise the Committees' decision and the Government's response, including the date that the proposed instrument was presented to the Sifting Committees, and the name under which it was submitted.
- **If the instrument's territorial extent or application is complex:** summarise the extent or application as needed to clarify the complexity.
- **If the instrument corrects a defective SI, or both corrects a defective SI and introduces new provisions:** state whether or not the free issue procedure has been applied and give the reasons for the decision (including reference to any consultation with the SI Registrar).
- **National Policy Statements:** there are broadly two types of National Policy Statements. Those governed by the Planning Act 2008 do not require an EM. Those governed under other legislation, for example the Procurement Act 2023, will require an EM.
- For other matters of interest, your drafting lawyer should contact the SI Hub (SIHub@cabinetoffice.gov.uk) if they are unsure whether something should be included.

12. European Convention on Human Rights

The Minister is required, in line with government policy, to declare their view on whether the statutory instrument being laid is compatible with the Convention rights if it amends primary legislation or is subject to the affirmative procedure.

Paragraph 12.1

- ☐ For instruments which are subject to the affirmative procedure or amend primary legislation, indicate whether the instrument is, or is not, compatible with the Convention rights by selecting the relevant option.

13. The Relevant European Union Acts

This section indicates whether the legislation relates to the UK's withdrawal from the European Union and subsequent amendment of EU law. This is covered by three main Acts: the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020, or the Retained EU Law (Revocation and Reform) Act 2023 ("the relevant European Union Acts"). Note that retained EU law should be referred to as "assimilated law" from 1 January 2024 (although the names of relevant legislation will not be updated).

Paragraph 13.1

Option 1

- ☐ Choose this option if the legislation is not being made under the relevant European Union Acts.
- ☐ If, despite this, the legislation is relevant to the UK's withdrawal from the EU, this should be indicated and explained.

Option 2

- ☐ Choose this option if the legislation is being made under the European Union (Withdrawal) Act 2018.
- ☐ Use the free text section to explain how the instrument relates to the UK's withdrawal from the European Union. You should relate the practical purpose and effect of the legislation to the Government's wider objectives and activities in this policy area.

Option 3

- ☐ Choose this option if the instrument is being made under the European Union (Future Relationship) Act 2020.

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- ☐ Use the free text section to explain how the instrument relates to the UK's future relationship with the European Union. You should relate the practical purpose and effect of the legislation to the Government's wider objectives and activities in this policy area.

Option 4

- ☐ Choose this option if the instrument is being made under the Retained EU Law (Revocation and Reform) Act 2023.
- ☐ Use the free text section to explain how the instrument relates to the revocation and reform of EU law. You should relate the practical purpose and effect of the legislation to the Government's wider objectives and activities in this policy area.

Paragraph 13.2

- ☐ The relevant European Union Act may require ministerial statements to be made as part of the EM. You should liaise with your drafting lawyer(s) to establish which statements, if any, are required, and insert these into the EM template.
 - A list of the statements that may be required, and details of their associated requirements, is annexed to this guidance.
 - Templates of the statements themselves are included in an annex to the EM template. **The annex in the EM template should be deleted once the relevant statements have been extracted, or if it is not required.**

Annex: Statements under the Relevant European Union Acts

This table sets out the various statements that may be required under the European Union (Withdrawal) Act 2018 and the Retained EU Law (Revocation and Reform) Act 2023. No statements are required under the European Union (Future Relationship) Act 2020. Work with your drafting lawyer(s) to establish which statements, if any, are required. These should be inserted after **Paragraph 13.2** of the EM.

European Union (Withdrawal) Act 2018			
Statement	Requirement origin	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising section 23(1) to make a negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/departmental select committees.
Appropriateness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising section 23(1)	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising section 23(1)	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising section 23(1)	Explain what, if any, amendment, repeals or revocations are being made to the Equality Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising section 23(1) In addition to the statutory	Explain the instrument, identify the relevant law before IP completion day, explain the

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European Union (Withdrawal) Act 2018			
Statement	Requirement origin	To whom it applies	What it requires
		obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	instrument's effect on retained EU law and give information about the purpose of the instrument.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising section 23(1) to create a criminal offence	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraph 19, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Retained EU Law (Revocation and Reform) Act 2023			
Sifting	Paragraph 6, Schedule 5	Ministers of the Crown exercising sections 11, 12, 14 to make a negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/departmental select committees.

5. Contacts

Your first port of call for EM queries should be your drafting lawyer(s), SI lead or parliamentary branch. A list of additional contacts is included below where further advice is required:

- For queries regarding specific EM content that your SI lead was unable to resolve, or to discuss the EM template or this guidance, please contact the Whips' Offices (secondary.leg@cabinetoffice.gov.uk).
- For queries regarding the publication, naming, and revision of an EM, contact The National Archives (SIRegistrar@nationalarchives.gov.uk).
- For queries regarding the development and publication of Impact Assessments, contact your departmental Better Regulation Unit.
- If you have queries relating to the Better Regulation Framework, contact the Regulation Directorate at the Department for Business and Trade (BRF@businessandtrade.gov.uk).
- For queries regarding legal content of the EM, please contact your drafting lawyer in the first instance, or the SI Hub (SIHub@cabinetoffice.gov.uk).
- For queries regarding the Windsor Framework, contact the Windsor Framework Taskforce (wfpolicy@cabinetoffice.gov.uk).

6. Style Guide

EM Format

1. All EMs must follow the standard EM template (available [here](#)). Adjusting the template in any way, including changes to wording, page margins and orientation, may lead to the EM being rejected. Only delete inapplicable sections when instructed to do so on the template.
2. EMs should typically be no longer than 5 pages. It is vital that the EM contains sufficiently detailed description, explanation and evidence, but this should be succinct and non-repetitive.
3. The EM template contains distinct Word formatting styles for each type of element an EM can contain. Using these styles will help ensure that the EM is formatted in the right way. For example, section headings should use the style "EM Section Heading", and the main paragraphs within a section should use the style "EM Level 1 Paragraph"
4. Do not insert pictures, graphs or tables of any kind into the EM.
5. Ensure all paragraphs are numbered, and that the numbering stays consistent throughout the document. Numbering should never restart from 1 except in the annex if it is present. Sub-paragraphs should be indented, and use bullet points rather than numbers.
6. For linked EMs, you should present the SI Titles and SI Numbers in numerical order. The format is as follows: SI Title followed by the SI Number on the next line; the next SI Title followed by the SI Number on the next line, etc., with "AND" inserted on a separate line before the final SI Title and SI Number.

Person, tone and grammar

7. Write in the third person singular ("The SI is..."), using active over passive voice where possible.
8. EMs should be written in a neutral, balanced tone. EMs are not political or legal documents. Although an EM should justify the Government's approach, it should do so by setting out *why* decisions were made.
9. An EM is a public-facing Government document scrutinised by Parliament. It should be written in formal but plain English, with priority given to clarity of communication. As such, both slang and technical jargon should be avoided.

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10. Acronyms (unless very common, such as UK or BBC) should be spelled out when first used.
11. SI titles should be capitalised. “Instrument” should be capitalised only when referring to a specific SI (e.g. when discussing The Example Regulations 2024, you may refer to the “Instrument”). Although SI(s) is capitalised, “statutory instruments” is not.

Citations and external links

12. EMs should be self-contained documents, and readers should not need to refer to external sources for its contents to make sense. However, linking to the source of evidence provided in an EM can be helpful. This should be done in footnotes, following a consistent referencing style.
13. Web links should be provided in footnotes with the full address visible, for example: “The Government published its response to the consultation²”. Avoid using inline links and hyperlinked text like [this](#).

² Example: Government’s Response to a Consultation: <https://gov.uk/consultation-response>