

<b>Title:</b> Impact Assessment for The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 <b>IA No:</b> HO0324  <b>RPC Reference No:</b> <b>Lead department or agency:</b> Home Office <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 17 December 2018
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary Legislation
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not Applicable
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**Cost of Preferred Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2011 prices)	One-In, Three-Out	Business Impact Target Status
N/A	N/A	N/A	N/A	N/A

**What is the problem under consideration? Why is government intervention necessary?**  
 The Government continues to prepare for all scenarios arising from the UK's withdrawal from the European Union (EU), including a scenario in which the UK leaves the EU without a deal in March 2019. As part of this, the Government is implementing a secondary legislation programme which will ensure that, without prejudice to the outcome of negotiations, there is an effectively functioning statute book on exit day.

**What are the policy objectives and the intended effects?**  
 To ensure that the statute book continues to function effectively in the area of security, law enforcement and criminal justice, and regulatory measures, in scope of the Regulations in the event that the UK leave the EU without agreement on a new relationship in March 2019.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
 The options are assessed under the scenario that the UK leaves the EU without a deal in March 2019. This is not an indication of an expected outcome but part of the analytical preparation for all scenarios.

**Option 0.1: Existing arrangements (static acquis):** retain existing arrangements. This option is not applicable as existing arrangements will cease to be available on exit day by virtue of the UK having withdrawn from the EU.


**Option 0.2: Do not legislate (do nothing):** the UK would not legislate to address failures of retained EU law to operate effectively, or to address other legislative deficiencies arising from the UK's withdrawal from the EU in the area of security, law enforcement and criminal justice, and for regulatory measures in scope of the Regulations

**Option 1: Legislate (preferred option):** the UK would legislate to address failures of retained EU law to operate effectively, as described in Option 0.2. The statute book would continue to function effectively should the UK depart the EU without any deal in March 2019.

**Will the policy be reviewed?** Yes, in light of negotiation outcomes. **If applicable, set review date:** TBC

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A	

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:		Date:	17/12/2018
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Description: Legislate (the Government's preferred option)

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years 10 Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

**Description and scale of key monetised costs by 'main affected groups':** Costs have not been monetised.

**Other key non-monetised costs by 'main affected groups':**

Technical amendments to legislation may require changes to guidance, with associated costs for training and communication within the public sector and in some cases, for business. Legislating will enable the implementation of the no deal contingency arrangement for extradition, resulting in the cost per incoming extradition case rising for the organisations affected - including central authorities, executing judicial authorities, law enforcement agencies and the criminal justice system (across the UK). The overall cost to each organisation will depend on the number of extradition requests.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

**Description and scale of key monetised benefits by 'main affected groups':** N/A

**Other key non-monetised benefits by 'main affected groups':**

Legislating will provide legal and operational certainty for the public sector, that could otherwise incur costs (including from the risk of litigation), and for business, who may otherwise be unclear about their liabilities. Legislating will provide provisions to address where procedures (for example, requests) are initiated but not completed before exit day and enable the operation of the no deal contingency arrangement for extradition. It would have wider unquantified societal benefits (compared to Option 0.2) in reducing uncertainty which could lead to poorer or impeded police and judicial cooperation between the UK and EU Member States, and ultimately could result in poorer justice outcomes.

**Key assumptions/sensitivities/risks**

**Discount rate** N/A

The options are assessed under the scenario that the UK leaves the EU without a deal in March 2019. This assumption is to prepare for all scenarios and is not an indication of an expected outcome.

**BUSINESS ASSESSMENT (Option 1)**

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m: N/A	
Costs: N/A	Benefits: N/A	Net: N/A

# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Background

The Government continues to prepare for all scenarios arising from the UK's withdrawal from the European Union (EU), including a scenario in which the UK leaves the EU without a deal in March 2019. As part of this, the Government is implementing a secondary legislation programme which will ensure that, without prejudice to the outcome of negotiations, there is an effectively functioning statute book on exit day.

The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 ('the Regulations') are part of this programme and, subject to their passage, will ensure that the statute book continues to function effectively in the area of security, law enforcement and criminal justice, and for regulatory measures in scope of the Regulations. The Regulations will utilise powers from the European Union (Withdrawal) Act 2018 and the 2003 Extradition Act in order to address failures of retained EU law to operate effectively or other legislative deficiencies arising from the withdrawal of the UK from the EU.

In a 'no deal' scenario, the UK's access to EU security, law enforcement and criminal justice tools would cease, and the UK would no longer be bound by the EU regulatory regimes in the field of law enforcement and security and would trade with the EU on 'third country' terms upon exit, by virtue of having ceased to be an EU Member State. These Regulations make consequential amendments to the UK statute book.

### A.2 Groups Affected

The policy will primarily impact UK public sector bodies which operate the security, law enforcement and criminal justice tools, and regulatory systems, in scope of the Regulations. This includes central authorities, executing judicial authorities, law enforcement agencies, and the criminal justice system across the UK.

There may be an impact on businesses through improved legal certainty, as businesses may otherwise be unclear about their liabilities because of changing reporting requirements. For example, this affects Information Society Service Providers (ISPs) and also affects financial institutions through suspicious activity disclosure requirements (Part 3 - Counter Terrorism and Part 20 - Proceeds of Crime of the Regulations). In addition, regulatory system amendments (specifically Part 5 - Chapter 1) will apply domestic licence requirements on EU drugs-precursor exporters for certain categories of chemical where a domestic licence is currently not required, placing the same requirement for UK trade with EU as currently exists with non-EU countries.

Table 1 in Section E (Analysis of Options) provides a brief description of what changes each Part of the Regulations makes, categorises the practical effect of the Regulations in that area, and describes the costs and benefits which may result (where applicable).

The technical amendments to legislation may require changes to guidance, with associated activity required in training and communication of changes within the public sector and in some case, for business.

### **A.3 Consultation**

For security, law enforcement and criminal justice, the Home Office has fully engaged with operational partners and the Devolved Administrations on preparations for a scenario in which the UK departs the EU without any deal in March 2019.

For the most part, the Regulations make changes to address failures of retained EU law to operate effectively, or to address other legislative deficiencies arising from the UK's withdrawal from the EU. For extradition, the Regulations will provide the legislative underpinning for the UK to transition its cooperation with EU Member States to a non-EU mechanism, and partners have been consulted on this as part of wider preparations for a 'no deal' scenario.

For the Regulatory Systems (drug precursor chemicals, firearms and explosive precursors) the Regulations are also seeking to address failures of retained EU law to ensure it operates effectively. As relevant the Devolved Administrations and other government departments were consulted during the drafting of the Regulations. The Home Office will continue to engage with stakeholders and licence holders following the implementation of the Regulations. As there is not a significant impact on businesses, the Home Office has not undertaken a formal consultation exercise. In addition, the impact of 'no deal' on drug precursor chemicals and firearms was communicated to licence holders and other stakeholders via Technical Notices published in September.

## **B. Rationale**

The Government continues to prepare for all scenarios arising from the UK's withdrawal from the EU, including a scenario in which the UK leaves the EU without a deal in March 2019.

Should the UK leave the EU without agreement on a future relationship in March 2019 – the 'no deal' scenario – failures in the ability of retained EU law to operate effectively or other legislative deficiencies arising from the withdrawal of the UK from the EU would emerge, which would impact on the effectiveness of the law enforcement and criminal justice systems and some regulatory functions. Legislation is required to mitigate these potential impacts.

## **C. Objectives**

To ensure that the statute book continues to function effectively in the area of security, law enforcement and criminal justice and regulatory measures in scope of the Regulations should the UK leave the EU without a deal in March 2019.

To provide the legislative underpinning for the UK to transition its cooperation with EU partners in the area of extradition and make necessary transitional and saving provisions in the area of security, law enforcement and criminal justice, and for regulatory measures in scope of the Regulations.

## **D. Options**

**Option 0.1: Existing arrangements (static acquis):** Retain existing arrangements. This option is not applicable as existing arrangements will cease to be available on exit day by virtue of the UK having withdrawn from the EU.

**Option 0.2: Do not legislate (do nothing):** The UK would not legislate to address failures of retained EU law to operate effectively, or to address other legislative deficiencies arising from the UK's withdrawal from the EU, in the area of security, law enforcement and criminal justice, and for regulatory measures in scope of the Regulations

**Option 1: Legislate (the Government’s preferred option):** the UK would legislate to address failures of retained EU law to operate effectively, and other legislative deficiencies arising from the UK’s withdrawal from the EU, in the area of security, law enforcement and criminal justice, and for regulatory measures in scope of the Regulations. The statute book would continue to function effectively should the UK depart the EU without any deal in March 2019.

Table 1 in Section E (Analysis of Options) provides a brief description of what changes each Part of the Regulations makes, categorises the practical effect of the Regulations and describes the costs and benefits which would result (where applicable).

## **E. Analysis of Options (Costs and Benefits)**

### **E.1 GENERAL ASSUMPTIONS & DATA**

The options are assessed under the scenario that the UK leaves the EU without a deal in March 2019. This assumption is for the purpose of analysis and is not an indication of an expected outcome. This assumption is made as part of the Government’s preparations for all scenarios.

Should the UK withdraw from the EU with a deal – that is, there is a Withdrawal Agreement (which includes a time limited implementation period) - the Government would defer, revoke or amend the relevant secondary legislation so that it does not come into force in March 2019.

Where specific data is referenced in Table 1, its source is specified. In general, where potential cost impacts have been identified for public sector operational partners in Table 1, these have been identified through our continued engagement with operational partners and the Devolved Administrations.

Following HMT Green Book Guidance, costs and benefits presented in the IA are considered applicable over a 10-year appraisal period.

### **E.2 OPTION 0.1 - Existing arrangements (static acquis)**

Under this option, the UK would retain existing arrangements. This option is not applicable as existing arrangements will cease to be available on exit day by virtue of the UK having withdrawn from the EU. As such, this option has not been assessed.

### **E.3 OPTION 0.2 – Do not legislate (do nothing)**

Under this option, the UK would not legislate to address failures of retained EU law to operate effectively, or to address other legislative deficiencies arising from the UK’s withdrawal from the EU, in the area of security, law enforcement and criminal justice, and for regulatory measures in scope of the Regulations.

### **COSTS**

Under Option 0.2, in the event of no deal, the legal framework which underpins the UK’s cooperation with European partners in this area would no longer function correctly. In some areas – outlined by Part in Table 1 - there are not expected to be specific practical impacts should the Regulations not be made. In effect, not legislating would simply leave redundant/obsolete legislation on the statute book without a specific practical impact. These measures are identified as Category B (2) in Table 1.

However, for some areas, the failure to correct legislative deficiencies through these Regulations could result in some practical impacts. This could give rise to costs to the public sector and/or businesses. These measures are identified as Category B (1) in Table 1.

There is also a single area - extradition - where the Regulations will make the necessary legislative changes to enable the operation of the 'no deal' contingency arrangement for extradition between the UK and EU Member States post-exit (identified as Category A in Table 1). For the area of extradition, the Regulations are necessary in order for the UK to be able to use the European Convention on Extradition as the basis for the UK's extradition relations with EU Member States in lieu of the European Arrest Warrant. Not legislating in this area would mean that the UK would not have a functioning mechanism in domestic law to allow for extradition from the UK to EU Member States upon exit.

Option 0.2 could also give rise to more general legal and operational uncertainty on the correct mechanism for the UK and EU Member States to utilise for cooperation, giving rise to public sector costs. It could also put the UK in breach of its international legal obligations under the European Convention. More broadly, the Government considers that the legal uncertainty arising from Option 0.2 creates a likelihood of litigation, which could incur costs for the public sector, and in some cases for businesses.

There could also be wider unquantified societal costs arising from operational and legal uncertainty through poorer or impeded police and judicial cooperation between the UK and EU Member States, which could result in poorer security and justice outcomes.

## **BENEFITS**

The Government does not consider that there are benefits arising from Option 0.2, owing to the potential for legal and operational uncertainty outlined above.

## **E.4 OPTION 1 – Legislate (preferred option)**

Under Option 1, the UK would legislate to address failures of retained EU law to operate effectively, and other legislative deficiencies arising from the UK's withdrawal from the EU, in the area of security, law enforcement and criminal justice, and for regulatory measures in scope of the Regulations. The statute book would continue to function effectively should the UK depart the EU without any deal in March 2019.

In the case of extradition, the Regulations would also ensure that the 'no deal' contingency arrangement for extradition between the UK and EU Member States can be used.

## **GENERAL COSTS**

Specific costs, where applicable, are outlined in Table 1.

Technical amendments to legislation may require changes to guidance, with associated costs incurred for training and communication of changes within the public sector and in some areas, for business.

## **GENERAL BENEFITS**

Specific benefits, where applicable, are outlined in Table 1.

This option should avoid the costs and risks presented in Option 0.2. This includes the avoidance of costs by providing legal and operational certainty.

## **E.5 MEASURE-SPECIFIC COSTS AND BENEFITS**

The specific costs and benefits associated with each Part of the Regulations is summarised in Table 1 below.

For the purpose of analysis, each Part of the Regulations has been categorised in accordance with the expected practical effect of the Regulations on the UK's cooperation with EU Member States in the relevant area. (Note this categorisation is a policy assessment and not a legal assessment):

- **Category A:** With effect from exit day, the relevant Part of the Regulations revokes the retained EU law relevant to the current EU measure and legislates to ensure the correct legal underpinning is in place for the no deal contingency arrangement – that is, the operation of the contingency arrangement is dependent upon the changes made by these Regulations.
- **Category B:** with effect from exit day, the relevant Part of the Regulations revokes the retained EU law relevant to the current EU measure.

For **Category B** measures, there are two sub-categories which reflect the specific practical impact (as defined below) – arising from that Part of the Regulations - should the Regulations not be made to address failures of retained EU law to operate effectively, and other legislative deficiencies:

- **Category B (1):** There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.
- **Category B (2):** There are not expected to be specific practical impacts arising if legislative deficiencies are not addressed through this Part of the Regulations.

Table 1 outlines what each Part of the Regulations does, categorises the practical effect of the Regulations and describes the costs and benefits which would result (where applicable). Please refer to the Explanatory Memorandum for further details of the scope of legislation falling under each measure.

The practical impacts for Option 1 (legislate), include:

- Removing legal and operational uncertainty for the public sector – ongoing benefit.
- Reducing legal uncertainty for business – ongoing benefit.
- Providing legal underpinning for extradition – ongoing benefit.
- Providing for transitional and/or saving provisions – one-off benefit.

**TABLE 1: Part Specific Impacts**

Part of the Regulations	What does the legislation do?	Categorisation
<p><b>Part 2 - Child Pornography</b></p>	<p>Part 2 of the instrument will amend the Council Decision 2000/375/JHA to apply the obligation to take measures to prevent and combat the sexual abuse of children so that they continue to apply to the UK.</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p> <p>The Government will continue to be responsible for encouraging industry to support work to tackle Indecent Images of Children (IIOC), and for providing the specialist law enforcement response to investigate the offences and safeguard the victims. The UK meets the policy through the industry-funded Internet Watch Foundation (IWF), and the Child Exploitation and Online Protection (CEOP) Command of the National Crime Agency. There is therefore unlikely to be a cost impact arising.</p>
<p><b>Part 3 - Counter-Terrorism (Regulations 5 and 6 (1-7))</b></p>	<p>The Terrorism Act 2000 ('the 2000 Act') contains various provisions prohibiting terrorism financing. Some of those provisions contain definitions and concepts which are defined by reference to definitions contained in EU law. For example, there are provisions which require disclosure of suspicions of terrorism financing, and an offence for tipping someone off that such a disclosure has been made where that would prejudice an investigation.</p> <p>However, sections 21E and 21F of the 2000 Act provide exemptions to this offence which apply where tipping off occurs within a "group" of companies or where disclosures are made between financial institutions. The definition of "group" and embedded definitions within it are rooted in EU legislation. Similarly, the definition of "regulated sector", which is a concept required for the criminal</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>As outlined, some of the provisions within the 2000 Act contain definitions and concepts which are defined by reference to definitions contained in EU law. The Regulations provide for minor technical amendments, which could have some cost impact in certain areas if they were not implemented. For example, sections 21E and 21F of the 2000 Act would incorrectly indicate that the UK remains an EEA state after exit day, meaning these exemptions would no</p>



	<p>offence imposed on the regulated sector of failing to make disclosures to the authorities of suspected terrorism financing, is rooted in EU law definitions, which are cross-referred to in Schedule 3A to the 2000 Act, as is the definition of “financial institution” in Schedule 6, which contains provisions relating to powers of the police to obtain information in the course of investigations into terrorism financing.</p> <p>Schedule 4 to the 2000 Act gives effect to our obligation under Framework Decision 2003/577 (on the execution EU of orders freezing property or evidence in the EU) and provides for the cross-border recognition of forfeiture orders relating to terrorism financing. There are three groups of provisions to address each jurisdiction (11A-11G covers England and Wales, 25A-25G covers Scotland, and 41A-41G covers Northern Ireland). The Regulations revoke these groups of provisions, but also establish transitional provisions so that any requests sent or received prior to exit day which have not been processed may be completed.</p>	<p>longer apply to relevant disclosures within the UK due to as definitional inaccuracy.</p> <p>If the Regulations are made, there is unlikely to be a cost impact arising. The transitional provisions provided ensure the UK honours our obligations under the procedure for requests that were initiated before exit day.</p>
<p><b>Part 3 - Counter-Terrorism (Regulations 5(6) and 7)</b></p>	<p>The Regulations amend Schedule 8A to the Terrorism Act 2000 and the Electronic Commerce Directive (Terrorism Act 2006) Regulations 2007, to maintain the “mere conduit”, “host” and “cache” exemptions for information society service providers in respect of the section 58A and section 1 and 2 offences.</p> <p>These Regulations also preserve the additional conditions that have to be satisfied before action can be taken against EEA-established information service society providers. However, these Regulations omit provisions which implemented requirements in Article 3 of the Directive which required Member States to extend their courts’ jurisdiction to service-providers engaged in conduct in other EEA states because such a requirement is linked to a reciprocal arrangement that would lapse in a no-deal scenario.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>The Regulations make required changes to ensure that exemptions to protect Information Society Service Providers (ISPs) continue to remain in place following the UK’s exit from the EU. The Regulations will also retain the additional conditions that have to be satisfied before action can be taken against EEA ISPs.</p> <p>These protections apply to ISPs and website hosting companies where they act as mere conduits or as intermediaries that cache or host third party content. The protections relate to the encouragement of terrorism, dissemination of terrorist publications and eliciting, publishing or communicating information about members of the armed forces.</p>

		<p>It is possible that without the amendments provided for in these Regulations, there would be legal uncertainty for ISPs concerning whether the protections which are required by a Directive that would have ceased to bind the UK continue to protect them. This includes being subject to increased criminal liability as a result of changes in compliance requirements. There is also a possibility of increased costs to ISPs as a result of needing to seek legal advice to changes to ascertain what they are criminally liable for. Lastly, there may be an impact on the prosecution services - the Crown Prosecution Service (England And Wales), the Crown Office and Procurator Fiscal Service (Scotland) and the Public Prosecution Service (Northern Ireland) should there be an increase in criminal cases against ISPs.</p>
<p><b>Part 4 - Cross-Border Surveillance</b></p>	<p>Part 4 of the Regulations will revoke<sup>1</sup> provisions of EU retained law so far as they relate to Articles 40, 42 and 43 of the 1990 Schengen Convention, concerning cross-border surveillance. In addition, transitional provisions established by the Regulations will ensure certain operations begun before exit day can be completed.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, the transitional provisions established ensure that certain operations begun before exit day can be completed. If these transitional provisions were not in place, this could have a practical impact.</p>
<p><b>Part 5 - Drug Precursors and Psychoactive Substances - Chapter 1 – Drug Precursors</b></p>	<p>Part 5, Chapter 1, of the Regulations will amend the EU Drug Precursor Regulations in UK law and the domestic implementing regulations (Controlled Drugs (Drug Precursors) (Intra-Community Trade) Regulations 2008 (SI 2008 No. 295 and Controlled Drugs (Drug Precursors) (Community External Trade) Regulations 2008 (SI 2008 No. 296)) to ensure that they operate effectively after exit day.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts are expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>These Regulations make the required changes to ensure that there is an effective domestic licensing regime in place to control and monitor these substances. This may have a practical impact on businesses who currently trade with the</p>

<sup>1</sup> As incorporated into UK law by the EU (Withdrawal) Act. This applies to all descriptions in Table 1 as applicable.

The Regulations will ensure that there is clarity over the mechanism in place to control and monitor chemical substances that are frequently used in the illicit manufacture of narcotic drugs. This will ensure that the UK remains compliant with its international obligations under the UN Convention. It will also allow for trade in these substances to continue, albeit on a different basis.

EU, as the Regulations will apply domestic licence requirements on certain categories of chemical, currently applied to third (non-EU) countries, where a domestic licence is currently not required when trading with the EU.

These Regulations also make changes to the import and export requirements for trade between the UK and the EU in these substances. Currently trade with the EU in these substances is licence free and there is no Pre-Export Notification (PEN) requirement, this is because there are separate EU regulations which govern trade within the Union. These Regulations make changes so that trade between the UK and the EU will have the same requirements as is currently in place for trade with non-EU countries. As a party to the UN convention against illicit traffic in narcotic drugs and psychotropic substances 1988 the UK is required to establish and maintain a system to monitor international trade in these substances. These Regulations enable this requirement to be fulfilled.

The Regulations will apply the same practical requirements for business to trade with the EU, as currently required to trade with non-EU countries:

- Registration/Licensing. Businesses trading with the EU, will need the same licences and registrations to trade with the EU as they currently need to trade with non-EU countries. This will mean that businesses will be required to apply for a licence or registration from the Home Office in order to trade with the EU in these substances.
- Pre-export notification (PEN). There may also be a PEN requirement for trade with the EU, this will depend on the category of chemical and the individual country's requirements – that is a country may request a PEN for certain drug precursor chemicals if there's an increased risk of diversion in their country.

		<p>This is subject to the EU importing countries requirements.</p> <p>Further information is available in the published Technical Notice.<sup>2</sup></p>
<p><b>Part 5 - Drug Precursors and Psychoactive Substances – Chapter 2 - Psychoactive Substances</b></p>	<p>Regulation 17(2) amends paragraphs 7 of Schedule 1 to the Psychoactive Substances Act 2016, to replace the definition of “prohibited ingredients” used in food (an exempt substance under the Act) as substances authorised in or on food by “EU instrument” to substances authorised by UK legislation (including subordinate and devolved legislation).</p> <p>Regulation 17(3) amends Schedule 4 to the Psychoactive Substances Act 2016 (providers of information society services), to omit provisions which implemented requirements in Article 3 of Directive 2000/31/EC which required Member States to extend their courts’ jurisdiction to service-providers engaged in conduct in other EEA states, as such a requirement represents a reciprocal arrangement which is no longer applicable in a no deal scenario, and which placed limitations on the content of prohibition notices or orders which restrict the freedom of non-UK service providers to provide information society services in relation to an EEA state.</p> <p>Regulations 18 and 19 revoke Regulation (EC) 1920/2006 and Regulation 2017/2101 on the European Monitoring Centre for Drugs and Drug Addiction (re-cast) and as regards information exchange on, and an early warning system and risk assessment procedure for, new psychoactive substances.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>These Regulations make required changes to ensure that UK legislation no longer relies on EU legislation for the definition of “prohibited ingredients” used in food. All new authorisations will be determined by the appropriate UK wide risk management procedure jointly exercisable by Minister of the Crown, Ministers of Wales, Scottish Ministers and in Northern Ireland, devolved authority. As such, if the changes were not in place, this could have a practical impact.</p> <p>In addition, the Regulations are made, they will remove domestic courts’ jurisdiction in relation to actions carried out abroad by EEA nationals established as service providers in the UK. These are part of a reciprocal agreement which is no longer applicable in a no deal scenario, and could have a practical impact.</p>
<p><b>Part 6 - Eurojust</b></p>	<p>Part 6 of the Regulations will revoke Council Decision 2002/187/JHA which established Eurojust, a body which supports cooperation among competent authorities of the Member States in the field of judicial cooperation in criminal matters.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p>

<sup>2</sup> Trading in drug precursors if there's no Brexit deal (20 September 2018): <https://www.gov.uk/government/publications/trading-in-drug-precursors-if-there-s-no-brex-it-deal>

	<p>The Regulations will also make limited savings provisions for Article 22(1) of Council Decision 2002/187/JHA. Article 22(1) relates to the data security of personal data provided by Eurojust to the UK under the Council Decision prior to exit day and retains the obligations in Article 22(1) of the Council Decision in relation to that data.</p> <p>Whilst any personal data held in the UK will be subject to the Data Protection Act 2018, this aims to provide legal certainty as to how personal data will continue to be treated in the UK after we cease to be subject to the Council Decision.</p> <p>The Regulations also retain the obligation of confidentiality for former UK national members of Eurojust and those who worked with them in relation to information received by Eurojust before exit day.</p>	<p>If the Regulations are made, the transitional provisions provide legal certainty on how personal data received by the UK from Eurojust before exit day, will be treated. If these transitional provisions were not in place, this could have a practical impact.</p>
<p><b>Part 7 - European Agency for Law Enforcement Training (CEPOL)</b></p>	<p>Part 7 of the Regulations revoke the CEPOL Council Decision 2005/681/JHA, which brings together a network of training institutes for law enforcement officials in Member States and provides training on security priorities, law enforcement cooperation and information exchange.</p> <p>In line with the revocation of the CEPOL Council Decision, these Regulations also revoke the European Police College (Immunities and Privileges) Order 2004. This Order confers privileges and immunities upon CEPOL and its members of staff but has never been commenced.</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p>
<p><b>Part 8 - European Criminal Record Information System (ECRIS)</b></p>	<p>Part 8 of the Regulations revokes UK law which has transposed Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States, and Directive 2011/93/EU (Directive 93) on combating the sexual abuse and sexual exploitation of children and child pornography. This removes the statutory obligation to share criminal records in accordance with Framework Decision 2009/315/JHA and Directive 93.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>The Regulations make saving provisions which clarify how the UK should handle information transmitted by an EU Member State to the UK before exit day. It also makes</p>

	<p>The Regulations make saving provisions which clarify how the UK should handle information transmitted by an EU Member State to the UK before exit day. It also makes transitional provisions which oblige the UK to respond to requests received from EU Member States prior to exit day.</p> <p>Part 8 of the Regulations also revokes Council Decision 2009/316/JHA, which relates to the European Criminal Record Information System (ECRIS) for the exchange of criminal records, in its entirety.</p>	<p>transitional provisions which oblige the UK to respond to requests received from EU Member States prior to exit day. If these transitional or saving provisions were not in place, this could have a practical impact.</p>
<p><b>Part 9 - European Judicial Network</b></p>	<p>Part 9 of the Regulations revokes Council Decision revokes Council Decision 2008/976/JHA which established the European Judicial Network and seeks to improve, facilitate and speed up international judicial cooperation and ensure the proper execution of mutual legal assistance and mutual recognition requests.</p> <p>For example, this would remove redundant obligations on Member States to maintain specific data on the EJN website or attend meetings at The Hague, which would be required under the Council Decision.</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p>
<p><b>Part 10 - EU-LISA</b></p>	<p>Part 10 of the Regulations revokes Regulation (EU) 2018/1726 and Council Decisions (EU) 2018/1600 and 2010/779/EU. Council Decision (EU) 2018/1600 of 14 November 2018 provided for the UK to participate in Regulation (EU) 2018/1726. Council Decision 2010/779/EU of 14 December 2010 provided for the UK to participate in Regulation (EU) No 1077/2011, which Regulation (EU) 2018/1726 repealed and replaced.</p> <p>'EU – Lisa' refers to the European Agency for the operational management of large-scale IT Systems.</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p>

<p><b>Part 11 - Europol</b></p>	<p>Part 11 of the Regulations will revoke the Europol Regulation, subject to certain savings provisions relating to information provided prior to exit day.</p> <p>The Regulations also revoke some further legislation relating to Europol including:</p> <ul style="list-style-type: none"> <li>• Five Council Decisions relating to Europol in so far as they are retained EU law.</li> <li>• Commission Decision (EU) 2017/388 confirming the participation of the United Kingdom of Great Britain and Northern Ireland in Regulation (EU) 2016/794 of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol).</li> <li>• Three Orders relating to Europol (none of which have been commenced).</li> </ul> <p>The Regulations will make saving provisions to provide legal certainty for information provided to the UK by Europol before exit day.</p>	<p><b>Category B (2):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, the saving provisions will provide legal certainty for information provided to the UK by Europol before exit day. If these transitional provisions were not in place, this could have a practical impact.</p>
<p><b>Part 12 - Exchange of Information and Intelligence between Law Enforcement Authorities and Disclosure in Foreign Proceedings</b></p>	<p>Part 12 of the Regulations revokes Part 5 of the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 which transposed Council Framework Decision 2006/960/JHA ('The Swedish Initiative') and Council Framework Decision of 13 June 2002 on joint investigation teams into UK law), subject to savings and transitional provisions.</p> <p>Part 12 also amends section 18(4)(b) of the Anti-terrorism, Crime and Security Act 2001 to ensure that the Secretary of State is only precluded from prohibiting the making of disclosures which are required under those EU laws that are retained as obligations following the UK's withdrawal.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will provide for the transitional and saving provisions outlined. If these transitional and saving provisions were not in place, this could have a practical impact.</p>

	<p>The Regulations make transitional and saving provisions in respect of pre-exit requests made by another EU Member State, information and intelligence supplied to the UK before exit day, as well as the use of information or intelligence supplied by the UK to other EU Member States prior to exit day. Savings provisions are also made in respect of information obtained by a UK member of a Joint Investigation Team before exit.</p>	
<p><b>Part 13 - Explosive Precursors</b></p>	<p>Regulation (EU) No 98/2013 (the “EU Regulation”) controls the marketing and use of explosives precursors in the EU, supporting the UK’s objective of reducing the threat of terrorist attacks and crime using explosives precursors, as well as enhancing health and safety for the UK public. The EU Regulation establishes a prohibition on general members of the public accessing certain chemicals. However, Member States can establish licensing and/or registration regimes to allow members of the general public controlled access to some chemicals if they have a demonstrable legitimate need.</p> <p>In England and Wales and Scotland, the regulatory framework implementing the EU Regulation is contained in the Poisons Act 1972 and secondary legislation made under it (the Control of Poisons and Explosive Precursors Regulations 2015, the “2015 Regulations”). In Northern Ireland, it is the EU Regulation that provides the licensing regime and rules around the use of explosives precursors, with the Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014 (CEPR) implementing it. After exit day, the EU Regulation will be retained EU law.</p> <p>Part 13 of the Regulations amends the EU regulation and domestic implementing legislation to maintain explosives precursors’ regulation in the UK after it leaves the EU. The Regulations will remove deficiencies and failures preventing the effective operation of the regulatory regime that would arise as a consequence of the UK’s withdrawal from the EU.</p>	<p><b>Category B (1)</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>The Regulations will remove deficiencies and failures preventing the effective operation of the regulatory regime that would arise as a consequence of the UK’s withdrawal from the EU.</p> <p>If the Regulations were not made, there could be a lack of clarity for businesses and the general public as the legislation would continue to refer to EU institutions rather than UK equivalents, and could also reduce the legal certainty with which the legislation can be applied in the UK.</p>



<p><b>Part 14 - Extradition</b></p>	<p>Part 14 of the Regulations adjusts the designation of EU Member States under the Extradition Act 2003 ('the Act') from Part 1 to Part 2. This reflects the change in the UK's international obligations arising from the shift in international legal basis for extradition from the European Arrest Warrant Framework Directive to the 1957 European Convention on Extradition ('the Convention').</p> <p>This change will give the UK the domestic legal basis to handle European Convention requests in the way set out in that convention. The Convention is a framework for the type of 'request-based' system that Part 2 of the Act is designed to implement, i.e. one where governments, rather than judicial authorities send and receive extradition requests, referring these to courts when required.</p> <p>The Regulations also provide for transitional provisions so that cases will continue to be handled under Part 1 of the Act, should the requested person be arrested or extradited to or from the UK before exit day.</p>	<p><b>Category A:</b></p> <p>The making of Regulations will legislate to enable the operation of the no deal contingency – operating the European Convention with EU Member States – with impacts outlined below.</p> <p>If the Regulations are made, extradition requests from EU Member States would be handled under Part 2 of the Act. This will result in a longer and more complex extradition process than exists at present under Part 1. For example, there are additional steps to follow under the Act, and hearings tend to be longer and more complex.</p> <p>Compared to the present operation of the EU measure under Part 1, operating under Part 2 would see the cost per incoming EU extradition case rise for the following operational stakeholders:</p> <ul style="list-style-type: none"> <li>• UK Central Authority (Home Office) and the Scottish Government (as the Central Authority for Part 2 extraditions in Scotland).</li> <li>• Executing Judicial Authorities - the Crown Prosecution Service (England and Wales), the Crown Office and Procurator Fiscal Service (Scotland), and the Public Prosecution Service (Northern Ireland).</li> <li>• Law Enforcement - including police forces and the National Crime Agency.</li> <li>• The Criminal Justice System (HMCTS, HMPPS, the Legal Aid Agency and Devolved equivalents).</li> </ul> <p>The overall cost to each organisation will be dependent on the number of extradition requests received from EU Member States under the Convention. Accordingly, in all categories except the UK Central Authority and Scottish Government, resource requirements could either rise or fall. As the latter two organisations would process extradition requests from</p>
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		<p>EU countries where formerly they did not, the cost on them would increase in any scenario.</p> <p>Due to the more complex extradition process set out under Part 2 of the Act, it is anticipated that the number of extraditions per year would be lower and each would take longer, with resultant implications for outcomes for criminal justice, including victims' interests.</p> <p>However, making the Regulations will ensure that the UK is operating Part 2 of the Act with EU Member States in line with the UK's international obligations. This would minimise the risk of successful legal challenge to any given extradition mitigating the risk that those arrested for extradition would be discharged by the courts and pose a threat to society. This will in turn improve outcomes for victims in individual cases, compared to a scenario where the Regulations were not made, as it would be more likely that offenders would eventually face justice.</p>
<p><b>Part 15 - Firearms</b></p>	<p>Part 15 of the Regulations will remove references to EU law in domestic firearms legislation and amend retained EU law to address legislative deficiencies arising from the UK's withdrawal from the UK, while retaining all the necessary safeguards and controls on the possession (etc.) of firearms and shotguns.</p> <p>The Regulations will repeal provisions in the Firearms Act 1968 requiring police forces to issue European Firearm Passes (EFPs) to UK residents who have been granted a firearm or shotgun certificate. The EFP is a form of 'passport' for firearms and is designed for use by those who are travelling with their firearms between EU countries.</p> <p>Should the UK leave the EU without a deal, EFPs would no longer be available to UK residents wishing to travel with their firearms to EU countries. UK firearm owners wishing to travel to EU countries with their firearm will need to comply with whatever new licensing or</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are not made, the UK would remain obliged to issue and renew EFPs despite them not being recognised by EU countries. This would incur unnecessary cost for the police forces who issue them across England, Wales, Scotland and Northern Ireland. However, these costs would only arise should individuals continue to apply for EFPs in error.</p> <p>There are a number of EFPs currently in the UK and no fee is payable. They are valid until either of the following, whichever is shortest: (a) The earliest time when a certificate relating to a firearm identified in the pass expires; or (b) five years. The Home Office is not able to assess what portion of current UK</p>

	<p>other requirements each EU country decides to impose. Further information is available in the published Technical Notice.<sup>3</sup></p>	<p>EFP holders will seek alternative licensing or other requirements for travel to EU Member States with firearms, as this is subject to the requirements of personal travel plans of current EFP holders.</p> <p>The other changes made by the Regulations will remove or amend references to EU law in firearms law and will not incur ongoing costs. For example, amendments relating to collectors of firearms, the use of firearms by persons under the age of 18 years and requirements for the verification and certification of deactivated firearms.</p>
<p><b>Part 16 - Football Disorder</b></p>	<p>Part 16 of the Regulations revokes the Council Decision 2002/348/JHA concerning security in connection with football matches with an international dimension, as amended by Council Decision 2007/412/JHA (which the Regulations also revoke). The Council Decision sets out how member states should cooperate to ensure security at such matches, including the requirement to run a national football information point to coordinate and facilitate police information exchange.</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p> <p>However, the UK will continue to operate a National Football Information Point with or without the Regulations.</p>
<p><b>Part 17 - Joint Investigation Teams</b></p>	<p>Once the UK is no longer a Member State, the UK will not be able to use the Council Framework Decision of 13 June 2002 on joint investigation teams (2002/465/JHA) as a legal base for Joint Investigation Teams with Member States.</p> <p>Part 17 of the Regulations will amend existing statutory and common law powers, which implemented Council Framework Decision (2002/465/JHA) on joint investigation teams.</p> <p>The Regulations also revoke the International Joint Investigation Teams (International Agreement) Order 2004. This specified the Schengen Agreement of 14 June 1985 as an international agreement under which joint investigation teams could be formed.</p>	<p><b>Category B (1):</b></p> <p>Practical impacts can be expected to arise if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will provide for the saving provisions outlined. If saving provisions were not in place, this could have a practical impact.</p>

<sup>3</sup> Travelling with a European Firearms Pass if there's no Brexit deal (13 September 2018): <https://www.gov.uk/government/publications/travelling-with-a-european-firearms-pass-if-there-s-no-brexit-deal/travelling-with-a-european-firearms-pass-if-there-s-no-brexit-deal>

	<p>The Regulations will also provide for a saving provision which will ensure that officers carrying out cross-border surveillance under the transitional provisions provided for in Part 4 would continue to benefit from Section 89(5) of the Police Act 1996, and the equivalent in the devolved legislation, for operations that have begun before exit day, until their completion.</p>	
<p><b>Part 18 - Mutual Legal Assistance in Criminal Matters</b></p>	<p>Part 18 of the Regulations will revoke the Criminal Justice (European Investigation Order) Regulations 2017 ('the EIO Regulations') - which implements Directive 2014/41/EU.</p> <p>The Regulations will also provide for saving provisions to retain certain EIO regulations in respect of EIOs made in the UK prior to exit day which are still ongoing (for example, prisoner transfers made under the EIO which are still being executed).</p> <p>The Regulations will also reverse consequential amendments that were made when the EIO Regulations were implemented. This includes changes to: Crime (International Cooperation) Act 2003 ('CICA'), orders designating participating countries under CICA, legislation governing the admissibility of evidence and legislation governing the powers of the Serious Fraud Office. In addition to this, where EU measures have been revoked by these Regulations certain provisions of CICA will cease to apply. Provisions of the Schengen Convention which were also introduced under CICA will be revoked.</p> <p>The Regulations will reverse a number of orders which designated countries as "participating countries" under CICA. Some participating countries were designated to give effect to an EU measure or EU – third party agreement. Where such EU measures or agreements will cease to apply on exit, and if there are no equivalent 'non-EU' obligations, the Regulations will revoke country specific designations.</p> <p>In addition, Part 3 of the EIO Regulations will be saved in so far as they apply to EIOs received by the UK before exit day. This will</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will provide for the transitional and saving provisions outlined. If these transitional and saving provisions were not in place, this could have a practical impact.</p>

	<p>enable those who are executing requests to continue to use the EIO Regulations to complete a request from a participating State that arrived before exit day especially where they are still in the process of being executed.</p>	
<p><b>Part 19 - Passenger Name Record Data</b></p>	<p>Part 19 of the Regulations amends the Passenger Name Record Data and Miscellaneous Amendments Regulations 2018 (“the PNR Directive Regulations”) so that the rules relating to the international sharing of PNR data are the same for EU Member States as they are for all other third countries.</p> <p>In particular the amendments remove reciprocal obligations with the EU that are no longer applicable.</p> <p>The Regulations will also revoke Council Decisions 2012/381/EU of 13 December 2011 and 2012/472/EU of 26 April 2012 which approve the EU Agreements on the transfer of PNR data by airlines to Australia and the United States. The amended PNR Directive Regulations will retain the data protection safeguards as provided for in the PNR Directive. They will provide that EU Member States are treated in the same way as third countries for the purposes of data exchange and cooperation.</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>Part 19 of the Regulations will retain the Passenger Name Record Data and Miscellaneous Amendments Regulations 2018 but amend those regulations to remove the direct link to the PNR Directive (EU/2016/681). In respect of EU carriers, the PNR Directive established a basis in EU law for EU carriers to be required to transfer PNR data to the UK government and to other Member States’ governments.</p> <p>If the Regulations were retained without amendment, then the UK Passenger Information Unit would remain obliged to provide information to an EU Member State Passenger Information Unit in response to a duly reasoned request for information (without any reciprocal arrangements).</p>
<p><b>Part 20 - Proceeds of Crime - Mutual Recognition Orders (Regulations 108 – 112)</b></p>	<p>Part 20 of the Regulations makes amendments to address legislative deficiencies arising from the UK withdrawal from the EU in relation to proceeds of crime legislation, primarily the Proceeds of Crime Act 2002 (POCA), as amended by the Criminal Finances Act 2017. This includes some of the provisions in POCA and the Criminal Finances Act (CFA) which rely on definitions based on EU law.</p> <p>Part 20 of the Regulations removes references to EU law in POCA and the CFA, in relation to the definition of a “bank”, EEA Politically Exposed Persons, the definition of categories of business that rely on EU law, and to ensure that competent bodies who can receive</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will provide for the transitional provisions outlined. If these transitional and saving provisions were not in place, this could have a practical impact.</p>

	<p>and send requests for assistance are no longer underpinned by an EU law definition.</p> <p>These Regulations also revoke Part 2 of, and Schedules 1 and 2 to the Criminal Justice and Data Protection (Protocol No 36) Regulations 2014, and ensure relevant transitional provisions are retained for requests received or sent prior to exit day.</p> <p>These Regulations make amendments to references to groups of companies in sections 333B and 333C of POCA, which provide a defence to the offence of “tipping off” under section 333A, to ensure that the defence will capture companies in the United Kingdom after exit day. The amendments made to Schedule 9 to POCA are all made to ensure that the definition of a business operating in the “regulated sector” (which are subject to the offence in section 330 of failing to support suspicions of money laundering) cross-refers, where possible, to categories of business defined in domestic law rather than categories defined in EU law which will remain frozen in their meaning as of exit day.</p> <p>The Criminal Justice and Data Protection (Protocol No 36) Regulations 2014 contains provisions allowing EU Member States to give effect to UK for freezing and confiscation orders to be sent to EU Member States and for orders from EU Member States to be given effect in the UK, pursuant to two Framework Decisions on mutual recognition. The Regulations provide for transitional provisions to ensure that cooperation can continue where a request was sent or received prior to exit day.</p>	
<p><b>Part 20 - Proceeds of Crime - AROs/FIU (Regulations 113 and 114)</b></p>	<p>Part 20 of the Regulations will revoke Council Decision 2000/642/JHA which contains provisions relating to the definition of a financial intelligence unit (FIU) and the sharing of financial information to tackle money laundering between FIUs. It also revokes Council Decision 2007/845/JHA which provides for the establishment of Asset Recovery Offices, which trace and identify property that is the proceeds of crime.</p>	<p><b>Category B (2):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will provide for the transitional and saving provisions outlined. If these transitional and saving provisions were not in place, this could have a practical impact.</p>

	<p>The Regulations also make savings provisions to ensure that the provisions relating to the use of information (including personal data) in Council Decisions 2000/642/JHA and 2007/845/JHA are preserved in respect of any information provided to other Member States under those procedures prior to exit day.</p>	
<p><b>Part 21 - Prüm – Exchange of Data Related to DNA, Fingerprints and Vehicle Registration</b></p>	<p>Part 21 of the Regulations revokes a number of Council Decisions (including 2008/615/JHA and 2008/616/JHA, Commission Decisions, and Council Implementing Decision relating to the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (Prüm).</p> <p>The Decisions set out rules with regard to automated access to DNA profiles, fingerprints and vehicle registration data; supply of data in relation to major events; supply of information in order to prevent terrorist offences; and other measures for stepping up cross-border police cooperation.</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts arising are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p> <p>While Prüm has been legislatively implemented, it is not yet operational in respect of the exchange of DNA, Vehicle Registration Data and Fingerprint data.</p>
<p><b>Part 22 - Schengen Information System (SIS II)</b></p>	<p>In the event of a 'no deal', the UK's access to the SIS II system will cease upon exit from the EU.</p> <p>Part 22 of the Regulations will revoke Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second-generation Schengen Information System (SIS II), which contains most of the rules relating to the use of SIS II.</p> <p>The SIS II legal framework also includes a number of supplementary legal instruments, including instructions on use of the 'SIRENE manual' (a set of operational instructions issued to national central bureaux designated for the purposes of processing SIS II data). The Regulations will therefore revoke a number of Council Decisions supplementary to 2007/533/JHA in their entirety insofar as they relate to SIS II, insofar as the relevant savings provisions do not apply.</p> <p>The Regulations make saving provisions in regard to SIS data, supplementary information and national files in connection with</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will provide for the saving provisions outlined. If these saving provisions were not in place, this could have a practical impact.</p>

	<p>action taken in the UK before exit day or in an alert which the UK issued before exit day.</p>	
<p><b>Part 23 - Serious Crime and Fraud – Serious Crime Act – Amendment of the Serious Crime Act 2007</b></p>	<p>Part 23 of these Regulations makes amendments to deal with legislative deficiencies arising from the UK's withdrawal from the UK in relation to the Serious Crime Act 2007, while preserving the effect of certain Electronic Commerce Directive (ECD) provisions.</p> <p>Section 34 of the Serious Crime Act 2007 provides that a Serious Crime Prevention Order (SCPO) may not include terms which restrict the freedom of a service provider who is established in an EEA state other than the UK to provide information society services in relation to an EEA state unless certain conditions are met, and the terms of the SCPO are necessary for the objective of protecting the public by preventing, restricting or disrupting involvement in serious crime in the UK.</p> <p>These Regulations preserve these conditions, amending references which would otherwise suggest the UK is an EEA state.</p> <p>These Regulations also omit provisions which implemented requirements in Article 3 of the ECD which require Member States to extend their courts' jurisdiction to service-providers engaged in conduct in other EEA states.</p> <p>Section 54 of the 2007 Act restricts the circumstances in which proceedings can be brought against an information society service provider for inchoate offences in Part 2 of the Act. The Regulations preserve the additional conditions that have to be satisfied before such proceedings can be brought, while amending references which would otherwise suggest the United Kingdom is an EEA state.</p> <p>Section 69 of the 2007 Act establishes an offence of disclosure of protected information, and contains an exemption where such a disclosure takes place in compliance with an EU obligation. These Regulations amend Section 69 to ensure the exemption applies only where the disclosure takes place in respect of retained EU obligations.</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>The Regulations preserve the effect of the Electronic Commerce Directive (ECD) for Serious Crime Prevention Orders (SCPO) and serious crime in UK law.</p> <p>The Regulations do not preserve requirements in Article 3 of the ECD which extend liability for offences to UK providers of information society services where they provide those services in EEA states. Article 3 is a reciprocal arrangement between EEA states and if the UK leaves the EU without a deal it will no longer be party to an arrangement between EEA states.</p> <p>Therefore, if the Regulations were not made then there would remain a possibility UK providers of information society services in EEA states could be prosecuted in UK courts.</p>



<p><b>Part 23 - Serious Crime and Fraud – Revocation of Council Regulation (EU) No 331/2014</b></p>	<p>Part 23 of the Regulations revoke the Council Regulation 331/2014 relating to the Pericles programme, established by the EU to provide training and assistance to prevent the counterfeiting of the euro.</p>	<p><b>Category B (2):</b> Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.  The Council Regulation provides assistance to law enforcement agencies and others in both member and non-member states to help protect the Euro. UK agencies have made very limited use of the programme.</p>
<p><b>Part 24 – Chapter 1 - Amendment of the Local Government (Miscellaneous Provisions) Act 1982</b></p>	<p>Whilst the Local Government (Miscellaneous Provisions) Act 1982 is domestic legislation, Schedule 3, Para.12(1) of the Act currently refers to the UK as being an “EEA state”, which will no longer be the case following the UK’s exit from the EU. This is in reference to residency requirements for those applying for licences for sex establishments in England and Wales.  In the event of the UK withdrawing from the EU without a deal in March 2019, domestic legislation is being amended to reflect the fact that the UK will not be an “EEA State” after exit day.</p>	<p><b>Category B (2):</b> Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.  The changes made by the Regulations are minor corrections which do not change the effect of the legislation.</p>
<p><b>Part 24 – Miscellaneous - Chapter 1 - Section 1 - Amendment of the Licensing Act 2003</b></p>	<p>The 2003 Licensing Act regulates the sale and supply of alcohol. There is a reference in section 120(8) of the Act that to qualify for a personal licence (which allows a person to supply alcohol to customers in a licensed premises), one of the pre-requisites is that an applicant possesses a UK accredited licensing qualification or an equivalent qualification from “an EEA State (not including the United Kingdom)”. The Regulation amends this to remove the words “not including the United Kingdom” to reflect the fact that the UK will no longer be an EEA State post-exit.</p>	<p><b>Category B (2):</b> Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.  The changes made by the Regulations are minor corrections which do not change the effect of the legislation.</p>

<p><b>Part 24 – Miscellaneous - Chapter 1 - Section 1 – Amendment of the Anti-social Behaviour, Crime and Policing Act 2014</b></p>	<p>The Regulation makes amendments to Schedule 6A of the Anti-social Behaviour Crime and Policing Act to remove the extension of liability in respect of the offence of identifying victims of forced marriage in publications.</p>	<p><b>Category B (2):</b> Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.  The changes made by the Regulation are minor corrections which do not change the effect of the legislation.</p>
<p><b>Part 24 – Miscellaneous - Chapter 1 - Section 1 - Amendment of the Human Trafficking and Exploitation (CJ Justice and Support for Victims) Act (NI) 2015</b></p>	<p>The Regulation will make amendments to Schedule 3A of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015. This will amend provisions in Northern Ireland to ensure they continue to correspond with changes made to Schedule 6A of the Anti-Social Behaviour, Crime and Policing Act 2014 (Regulation 126).</p>	<p><b>Category B (2):</b> Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.  The changes made by the Regulation are minor corrections which do not change the effect of the legislation.</p>
<p><b>Part 24 – Miscellaneous - Chapter 1 - Section 1 - Amendment of the Policing and Crime Act 2017</b></p>	<p>The Regulation will remove Section 144 of the Police and Crime Act 2017, which enable regulations under Section 2(2) of the European Communities Act 1972 to set a maximum term of imprisonment of more than 2 years for financial sanctions.</p>	<p><b>Category B (2):</b> Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.  The changes made by the Regulation are minor corrections which do not change the effect of the legislation.</p>
<p><b>Part 24 - Miscellaneous - Chapter 1 - Section 2 - Amendment of</b></p>	<p>The Regulation makes amendments to the Police Pensions (Additional Voluntary Contributions) Regulations 1991, which provides the statutory basis for a standalone AVC scheme for police officers.</p>	<p><b>Category B(2):</b></p>

<p><b>the Police Pensions (Additional Voluntary Contributions) Regulations 1991</b></p>	<p>The amendments will remove a reference to EEA insurance companies.</p>	<p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p> <p>The changes made by the Regulation are minor corrections which do not change the effect of the legislation.</p>
<p><b>Part 24 - Miscellaneous - Chapter 1 - Section 2 - Amendment of the Electronic Commerce Directive (Trafficking People for Exploitation) Regulations 2013</b></p>	<p>The Regulation revokes Regulation 3 of the Electronic Commerce Directive (Trafficking People for Exploitation) Regulations 2013.</p> <p>The effect of this is to omit provisions which implemented requirements in Article 3 of Directive 2000/31/EC which required Member States to extend their courts' jurisdiction to service-providers engaged in conduct in other EEA states, as such a requirement represents a reciprocal arrangement which is no longer applicable in a no deal scenario.</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will remove domestic courts' jurisdiction in relation to actions carried out abroad by EEA nationals established as service providers in the UK. These are part of a reciprocal agreement which is no longer applicable in a no deal scenario, could have a practical impact if the Regulations were not made.</p>
<p><b>Part 24 - Miscellaneous - Chapter 1 - Section 2 - Amendment of the Police Pensions Regulations 2015</b></p>	<p>The Regulations make amendments to the Police Pensions Regulations 2015, which provide the statutory basis for the current police pension scheme.</p> <p>The amendments will remove a reference to doctors who have EEA equivalent qualifications. There will be no practical difference for police forces.</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p> <p>The changes made by the Regulations are minor corrections which do not change the effect of the legislation.</p>
<p><b>Part 24 - Miscellaneous - Chapter 2 - Amendment of the Investigatory Powers Act 2016</b></p>	<p>The Regulation makes amendments to the Investigatory Powers Act that are consequential on the revocation of the European Communities Act 1972.</p> <p>Section 19 of the Investigatory Powers Act 2016 sets out the power of the Secretary of State to issue warrants authorising the targeted interception of communications. Section 102 makes similar</p>	<p><b>Category B (2):</b></p> <p>Specific practical impacts are not expected to arise if legislative deficiencies are not addressed through this Part of the Regulations.</p>

	<p>provision in respect of warrants authorising interference with equipment.</p> <p>Both sections set out the circumstances in which this power may not be exercised by the Secretary of State because it is instead exercisable by the Scottish Ministers. Sections 19(5) and 102(9) provide that this restriction does not prevent the Secretary of State from doing anything under those sections for the purposes specified in section 2(2) of the European Communities Act 1972.</p> <p>Should the UK withdraw from the EU without a deal in March 2019, the European Communities Act 1972 will be revoked. The revocation of sections 19(5) and 102(9) is consequential on the revocation of that Act.</p> <p>Sections 19 and 102 will continue to operate as they do now, without the references to the 1972 Act.</p>	<p>The changes made by the Regulation are minor corrections which do not change the effect of the legislation.</p>
<p><b>Part 24 - Miscellaneous - Chapter 2 - Amendment of the Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018</b></p>	<p>The Regulation will make amendments to The Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018 (S.I. 2018/356). Those Regulations provide the legal basis under which a body, such as a company or public authority, may intercept communications that are transmitted by a telecommunications system they control. They make clear that authorised conduct for these purposes may include interception that is carried out in order to ascertain compliance with regulatory or self-regulatory practices or procedures.</p> <p>Regulation 133 will remove provisions that currently enable interception to take place in accordance with regulatory practices required by other EU Member States or other states within the European Economic Area (or relevant bodies within such states).</p> <p>The amendments will make clear that regulatory or self-regulatory practices will be limited to those for which compliance is required by an enactment in UK law or by standards or Codes of Practice established by or on behalf of a relevant body in the UK.</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>The Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018 enable certain activity by businesses and other bodies (though they do not impose obligations or incur costs). The amendments may by this Regulation would limit the regulatory purposes for which those bodies could conduct interception. Any impacts arising would be minor.</p>

	<p>In addition, S.I 2018/356 currently limits certain conduct to the extent that it is permitted by Article 5 of Directive 2002/58 (the E-Privacy Directive). As the provisions of the E-Privacy Directive would no longer apply in relation to the relevant activity, the amendments also remove this limitation.</p>	
<p><b>Part 24 - Miscellaneous - Chapter 3 - International Agreements</b></p>	<p>Chapter 3 of Part 24 is concerned with certain international agreements in the field of law enforcement and security.</p> <p>To the extent that these agreements give rise to directly effective rights, which are retained by the EU Withdrawal Act, these Regulations provide that those rights should cease to have effect in domestic law, subject to a saving provision.</p> <p>The saving provision provides that, to the extent that any directly effective right in one of the international agreements listed corresponds to another right which is being saved elsewhere in these Regulations, that directly effective right is saved to the same extent.</p>	<p><b>Category B (1)</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>While the precise impact of not legislating in this area is unclear, any directly effective rights derived from the international agreements listed in the Regulations would continue to have effect in domestic law (without reciprocation), which could have a practical impact.</p> <p>The Regulations also provides for the saving provisions outlined. If these saving provisions were not in place, this could have a practical impact.</p>
<p><b>Part 24 - Miscellaneous - Chapter 4 - Atlas -- Cooperation between Special intervention Units</b></p>	<p>Chapter 4 of Part 24 will revoke the Atlas Council Decision 2008/617/JHA.</p> <p>It also makes transitional provision in relation to requests for assistance made by a Member State to the UK before exit day, with the effect that the UK is required to reply to such requests and complete any cooperation where the requesting Member State wishes for the UK to do so.</p> <p>The Regulations retain the right to decline a request for assistance from an EU Member State. They also make transitional provision in relation to requests for assistance made by the UK to a Member State before exit day. This will allow other EU Member States to operate in the UK in relation to such requests on similar terms to before exit should they wish to so do.</p>	<p><b>Category B (1):</b></p> <p>There could be some practical impacts arising if legislative deficiencies are not addressed through these Regulations.</p> <p>If the Regulations are made, they will provide for the transitional and saving provisions outlined. If these transitional and saving provisions were not in place, this could have a practical impact.</p> <p>While there is potential for the UK to receive a request for assistance before exit day, historically it is rare for a Special Interventions Unit from one Member State to operate in another; this is particularly true in the UK.</p>

## **Business Impact Target**

Legislation which corrects deficiencies in retained legislation arising from the UK's withdrawal from the EU is exempt from the Business Impact Target. Costs and benefits arising for business are outlined throughout.

## **F. Risks**

### **OPTION 0.2 – Do not legislate (do nothing)**

This option could give rise to legal and operational uncertainty. However, the scale of the overall risk of not legislating is difficult to assess in advance of the UK's departure from the EU and it would be disproportionate to attempt to do so.

The assumption of no deal is part of a range of scenarios and determining the number of external organisations in scope, the extent of change to their operational processes, and risks of legal compliance, would require them to follow government guidance, self-identify, seek legal advice, and report to authorities. Therefore, it is considered unlikely further evidence would be available until the assumption is replaced with an actual outcome. This uncertainty will therefore remain until implementation and it is considered disproportionate to evidence further at this stage, particularly as areas of impact identified are limited. Legislation – Option 1 – minimises the costs and risks of Option 0.2, which may be higher or lower than anticipated in this assessment due to inherent uncertainty.

However, there are clear risks identifiable from not legislating on extradition – which would result in the UK not being able to use the Council of Europe Convention on extradition with EU Member States post-exit – and from not legislating to make transitional and saving provisions – which would create legal and operational uncertainty at the point of exit.

### **OPTION 1 – Legislate (the Government's preferred option)**

As outlined, Option 1 would reduce legal and operational uncertainty in a 'no deal' scenario, including by establishing transitional and saving provisions.

As outlined in Option 0.2, uncertainty will remain until implementation and it is considered disproportionate to evidence further at this stage.

## **G. Enforcement**

**Enforcement will be compliant with the principles of the [Regulators' Code](#), and will be conducted in a fair, open and proportionate manner.**

## **H. Summary and Recommendations**

The Government recommends proceeding with Option 1 – legislate.

The analysis outlined in this Impact Assessment demonstrates the potential costs arising from Option 0.2, should the Regulations not be made to address failures of retained EU law to operate effectively, and other legislative deficiencies arising from the UK's withdrawal from the EU. This includes legal and operational uncertainty, with potential impacts on public sector bodies across the UK and in some cases businesses.

## **I. Implementation**

The Regulations will be brought into force on exit day. Should the UK withdraw from the EU with a deal – that is, the Withdrawal Agreement is agreed and ratified - the Government would defer, revoke or amend the relevant secondary legislation, likely through the Withdrawal Agreement Bill, so that it does not come into force in March 2019.

## **J. Monitoring and Evaluation**

The EU (Withdrawal) Act 2018 disapplies the requirement for post-implementation reviews of the statutory instruments that are brought forward under the Act (Schedule 7, Part 3, Section 27: Disapplication of certain review provisions).

However, in respect of security, law enforcement and criminal justice, the Home Office will continue to engage with operational partners and Devolved administrations as a matter of course as the UK transitions its cooperation with EU Member States, to identify issues where they arise.

For the Regulatory Systems (drug precursor chemicals, firearms and explosive precursors) the Home Office will continue to engage, where relevant, with the Devolved Administrations, licence holders and stakeholders to identify issues that may arise. The Home Office will continue to monitor the number of new licences issued under the changes made by the Regulations and any impacts to the licensing system.

## **K. Feedback**

The Home Office will continue to engage with licence holders, operational partners and the Devolved Administrations as a matter of course.

For drug precursor chemicals impacted businesses will be able to feedback on implementation through the Drugs and Firearms Licensing Unit enquiries inbox and phone line.