

## Explanatory Note

# Clause 79: Data-gathering powers: providers of payment or intermediary services

## Summary

1. This measure extends Schedule 23 to Finance Act (FA) 2011 which covers HM Revenue & Customs' (HMRC) bulk data gathering powers. This enables HMRC to collect data from certain third parties which is for use in HMRC's compliance activities.
2. The changes enable HMRC to issue a notice to electronic payment service providers, who perform a similar function to merchant acquirers, who operate "digital wallets" (These are where a monetary value is stored, from a bank account or payment card electronically for use to transfer payments to a retailer or trader); and business intermediaries, who facilitate transactions between supplier and their customer or clients. This will future proof legislation to include emerging new data sources. The changes will have effect from Royal Assent.

## Details of the clause

3. **Paragraph 1** amends Part 2 of Schedule 23 to FA 2011 to insert a new paragraph 13B for electronic payment service providers and a new paragraph 13C for business intermediaries as a new category of relevant data-holder.
4. The existing provisions and safeguards of Schedule 23 FA 2011 apply to the new power.
5. **Paragraph 2** provides that data can be required which relates to periods before the law comes into effect. This approach follows that taken for Schedule 23 FA 2011 and is subject to time limits in Schedule 23.

## Background note

6. HMRC's data-gathering powers were modernised in Schedule 23 FA 2011 following consultations, as part of the HMRC Review of Powers, Deterrents and Safeguards. Schedule 23 provides a framework of powers for HMRC to obtain third-party data from a range of specified data-holders, subject to appeal, with penalties for non-compliance. The data is used for risk analysis, to enable HMRC to target its compliance work more accurately.
7. Since these new powers were introduced, new payment methods and innovations have arisen through developments in the digital world. Electronic payment providers and business intermediaries were not specifically specified as data-holders in Schedule 23 FA2011 as originally enacted and do not fall within any other existing categories of data-holder specified in the schedule.

8. The data will help with HMRC tackle the hidden economy by identifying businesses that are receiving income but are not registered for tax, as well as those who are registered but under-declare their income to HMRC. HMRC will not be obtaining data about the individual consumer.
9. Treasury secondary legislation is needed to specify the data that HMRC may require electronic payment service providers and business intermediaries to provide. These draft regulations were published on 9 December 2015.
10. If you have any questions about this change, or comments on the legislation, please contact Angela Roach on 03000 586962 (email: [angela.roach@hmrc.gsi.gov.uk](mailto:angela.roach@hmrc.gsi.gov.uk)) or Paul Miller on 03000 586520 (email: [paul.miller@hmrc.gsi.gov.uk](mailto:paul.miller@hmrc.gsi.gov.uk)).