

EXPLANATORY MEMORANDUM TO
THE DATA-GATHERING POWERS (RELEVANT DATA) (AMENDMENT)
REGULATIONS 2016

2016 No. [xxxx]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HMRC and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations specify relevant data that may be required from two categories of relevant data-holder introduced into Schedule 23 to Finance Act 2011 by sections [x] and [x] of Finance Act 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Schedule 23 to Finance Act 2011 contains HMRC's bulk data-gathering powers. Persons whom HMRC may require relevant data from are called relevant data-holders and are specified in Part 2 of Schedule 23. The kinds of data that HMRC may require from particular data-holders are specified in the Data-gathering Powers (Relevant Data) Regulations 2012.
- 4.2 Sections [] and [] of the Finance Act 2016 introduce two new categories of relevant data-holder to Part 2 of Schedule 23 to the Finance Act 2011 – electronic payment service providers and business intermediaries.
- 4.3 These Regulations amend the Data-gathering Powers (Relevant Data) Regulations 2012 in order to specify relevant data that may be required from these new categories of relevant data-holder.
- 4.4 Additionally, the Regulations amend the relevant data that may be required from merchant acquirers, which are specified as data-holders in paragraph 13A of Schedule 23, in order to align it with the form of the new regulations.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is all of the United Kingdom.
- 5.2 The territorial application of this instrument is all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The policy objective is to provide HMRC with a power to require emerging forms of business - electronic payment service providers and business intermediaries - to provide data that will assist HMRC in tackling the hidden economy.
- 7.2 Electronic payment service providers provide services by means of which monetary value is stored electronically for the purpose of payments being made in respect of transactions to which the provider is not a party. They are used by retailers in order to receive payments for goods and services.
- 7.3 Business intermediaries facilitate and enable transactions between suppliers and their customer or clients. As such, they hold valuable information about the volume and value of suppliers' transactions. HMRC has evidence that many such suppliers currently underpay, or do not pay at all, appropriate tax on the income generated from these transactions, and the data from business intermediaries will assist in risk assessment.
- 7.4 These Regulations specify the relevant data that HMRC can require electronic payment service providers and business intermediaries to provide. In the case of business intermediaries, it is restricted to information about the suppliers of goods and services and associated transactions. In the case of electronic payment service providers, it is restricted to those who receipt payments via these services, who HMRC expects will mostly be persons acting in the course of business.
- 7.5 The kind of information HMRC may require includes information about accounts money has been transferred in to and identifying information about the supplier or payment recipient, including: the account holder's name, address, telephone number, email address, website address, national insurance number, VAT number, unique taxpayer reference, or any other identifying information. HMRC will also be able to require details of any associated bank account and whether the business is an individual, partnership or limited company. .
- 7.6 The data help 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.

Consolidation

- 7.7 Not applicable.

8. Consultation outcome

- 8.1 A consultation document was published by HMRC on 22 July 2015 about the proposals to extend Schedule 23 to Finance Act 2011 to electronic payment service providers and business intermediaries. A summary of the responses was published on 9 December 2015.

8.2 Following the consultation draft primary and secondary legislation was published for comment on 9 December 2015 as part of the consultation on the Finance Bill 2016. The consultation will close on 3 February 2016.

9. Guidance

9.1 Relevant guidance will be updated and published.

10. Impact

10.1 There is no impact on charities or voluntary bodies.

10.2 The legislation applies to business intermediaries, including those facilitating online trade, and electronic payment service providers who operate digital wallets.

10.3 These measures are expected to benefit compliant businesses by ensuring a level playing field between those businesses who comply with their tax obligations, and those that do not.

10.4 There will be some impact in respect of additional administrative burdens for business intermediaries and electronic payment providers, as they will be required to provide HMRC with this information and data.

10.5 There will be some impact on HMRC to receive and process the data but there will not be an impact on the wider public sector.

10.6 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses but only if they meet the definitions in the primary legislation. The legislation is more likely apply to large business.

12. Monitoring & review

12.1 This measure will be monitored through compliance activity and communication with bodies required to provide HMRC with bulk data, to ensure the policy operates as intended

13. Contact

13.1 If you have any questions about this instrument please contact Angela Roach at HMRC, Telephone: 03000 586962 or email: angela.roach@hmrc.gsi.gov.uk.