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## STATUTORY INSTRUMENTS

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# 1998 No. 1870

## The Individual Savings Account Regulations 1998

### **[<sup>F1</sup>Conditions for application to open an account that is not a junior ISA account]**

**12.**—(1) An application by an individual to [<sup>F2</sup>open] an account in the year in which he first subscribes to that account, and in the year following a year in which that individual has not subscribed to the account, must be made to an account manager in a statement and<sup>F3</sup>... must fulfil the conditions specified in paragraphs (2), (3) and (4).

(2) An application must specify the first year to which the application relates.

(3) An application [<sup>F4</sup>must contain] a declaration by the applicant that—

[<sup>F5</sup>(a) his application is to [<sup>F6</sup>open] a stocks and shares account or cash account, as the case may be;]

(b) the declaration shall have effect for the year to which paragraph (2) refers, and each successive year following that year, in which the applicant subscribes to the account;

(c) all cash subscriptions made, and to be made, to the account are the applicant's cash;

[<sup>F7</sup>(d) in the case of a stocks and shares account, the applicant—

(i) has not subscribed, and will not subscribe, to any other stocks and shares account, in the year to which paragraph (2) refers, and

(ii) will not subscribe to any other stocks and shares account, in each successive year following that year, in which the declaration has effect;]

[<sup>F7</sup>(e) in the case of a cash account, the applicant—

(i) has not subscribed, and will not subscribe, to any other cash account, in the year to which paragraph (2) refers, and

(ii) will not subscribe to any other cash account, in each successive year following that year, in which the declaration has effect;

(ea) that the applicant has not subscribed, and will not subscribe, more than the appropriate overall subscription limit in [<sup>F8</sup>regulation 4ZA(1)] (aggregating subscriptions to all accounts)—

(i) in the year to which paragraph (2) refers, and

(ii) in each successive year following that year, in which the declaration has effect;

(eb) that in the case of a cash account, the applicant has not subscribed, and will not subscribe, more than the subscription limit in [<sup>F9</sup>regulation 4ZA(1)(a) or (2)]—

(i) in the year to which paragraph (2) refers, and

(ii) in each successive year following that year, in which the declaration has effect;]

[<sup>F10</sup>(f) the applicant is 16 years of age or over, and—

(i) is resident<sup>F11</sup>... in the United Kingdom, or

(ii) [<sup>F12</sup>is a person who has general earnings from overseas Crown employment subject to United Kingdom tax within the meaning given by section 28 of ITEPA 2003,] or

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(iii) is married to [<sup>F13</sup>or in a civil partnership with] a person mentioned in paragraph (ii), and will inform the account manager if he ceases to be so resident<sup>F14</sup> ..., or to perform such duties, or to be married to [<sup>F15</sup>or in a civil partnership with] a person who performs such duties, as the case may be;]

<sup>F16</sup>(g) .....

(4) An application must contain—

- (a) the applicant’s full name,
- (b) the address of his permanent residence, including postcode,
- (c) his national insurance number, or confirmation that he does not have one, <sup>F17</sup>...
- (d) his date of birth<sup>F18</sup>,
- (e) the authorisation specified in paragraph (4A)]

[<sup>F19</sup>(4A) The authorisation specified by this paragraph is authority given by the applicant to the account manager—

- (a) to hold the subscriptions, account investments, interest, dividends and any other rights or proceeds in respect of those investments and cash;
- (b) to make on behalf of the applicant any claims to relief from tax in respect of account investments; and
- (c) to make a record in writing in accordance with paragraph (7) where that paragraph requires the account manager to do so.]

<sup>F20</sup>(5) .....

(6) An account manager may not accept as an account investor any individual if he has reason to believe that—

- (a) he is not or might not be a qualifying individual, or
- (b) he has given untrue information in his application.

[<sup>F21</sup>(7) Where an application is not in writing or the manager operates a record system under which all original written applications are not retained—

- (a) the account manager must, immediately after receiving the application, record in writing on behalf of the applicant, the declaration required by paragraph (3) and authorisation required by paragraphs (4)(e) and (4A);
- (b) the account manager must notify the applicant of the contents of the written record within 5 business days of making it; and
- (c) the written record (as amended by any corrections notified to the account manager by the applicant within 30 days of the notification mentioned in sub-paragraph (b)) shall be treated as the applicant’s declaration required by paragraph (3) and authorisation required by paragraphs (4)(e) and (4A).]

<sup>F22</sup>(7A) .....

(8) Section 95 of the Management Act <sup>M1</sup> shall have effect as if—

- (a) the statement and declarations to which paragraphs (1), (3) and (7) refer were a statement or declarations, as the case may be, within the meaning of subsection (1)(b), and
- (b) there were substituted for subsection (3) the following words—

“(3) The relevant years of assessment for the purposes of this section are the year of assessment in respect of which any claim to relief or exemption from tax in connection

with which the statement or declarations are relevant, is made, the next following, and any preceding year of assessment.”

[<sup>F23</sup>(9) An application furnished by an individual under this regulation <sup>F24</sup>... shall be regarded as in writing if it is furnished—

- (a) by telephonic facsimile transmission containing the signature of the individual, or
- (b) by electronic communication containing an electronic signature of the individual.

[<sup>F25</sup>(10) Where an account manager is required by paragraph (7) to make a record in writing—

- (a) a record shall be regarded as being a written record if it is produced by electronic means;
- (b) the notification of the contents of the record by the account manager to the applicant required by paragraph (7)(b) may be sent to the applicant by telephonic facsimile transmission or by electronic communication.]

(11) In this regulation—

[<sup>F26</sup>“electronic communication” includes any communication conveyed by means of an electronic communications network.]

“electronic signature” has the meaning given by section 7(2) of the Electronic Communications Act 2000.]

[<sup>F27</sup>(11A) In paragraph (3), references to subscriptions to an account do not include subscriptions to an account that is a junior ISA account.]

[<sup>F28</sup>(12) An application may be made on an individual’s behalf —

- (a) if the individual is resident in England and Wales—
  - (i) pursuant to an order under section 16(2)(a) of the Mental Capacity Act 2005; or
  - (ii) by a deputy appointed under section 16(2)(b) of that Act; or
- (b) if the individual is resident in Scotland or Northern Ireland and is suffering from mental disorder, by a parent, guardian, spouse, civil partner, son or daughter of the individual.]

[<sup>F29</sup>(13) In paragraph (12) “mental disorder” has the meaning given by <sup>F30</sup>... in Scotland, [<sup>F31</sup>section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003] or, in Northern Ireland, Article 3 of the Mental Health (Northern Ireland) Order 1986.]

#### Textual Amendments

- F1** Reg. 12 heading inserted (1.11.2011) by [The Individual Savings Account \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/1780\)](#), regs. 1, **18(a)**
- F2** Word in reg. 12(1) substituted (1.11.2011) by [The Individual Savings Account \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/1780\)](#), regs. 1, **18(b)**
- F3** Words in reg. 12(1) omitted (8.8.2012) by virtue of [The Individual Savings Account \(Amendment\) \(No. 2\) Regulations 2012 \(S.I. 2012/1871\)](#), regs. 1, **14**
- F4** Words in reg. 12(3) substituted (1.11.2011) by [The Individual Savings Account \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/1780\)](#), regs. 1, **18(c)(i)**
- F5** Reg. 12(3)(a) substituted (6.4.2008) by [The Individual Savings Account \(Amendment\) Regulations 2007 \(S.I. 2007/2119\)](#), regs. 1, **15(a)**
- F6** Words in reg. 12(3)(a) substituted (1.11.2011) by [The Individual Savings Account \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/1780\)](#), regs. 1, **18(c)(ii)**
- F7** Reg. 12(3)(d)-(eb) substituted for reg. 12(3)(d)(e) (6.4.2008) by [The Individual Savings Account \(Amendment\) Regulations 2007 \(S.I. 2007/2119\)](#), regs. 1, **15(b)**
- F8** Words in reg. 12(3)(ea) substituted (1.11.2011) by [The Individual Savings Account \(Amendment No. 2\) Regulations 2011 \(S.I. 2011/1780\)](#), regs. 1, **18(c)(iii)**

- F9** Words in reg. 12(3)(eb) substituted (1.11.2011) by The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(c)(iv)**
- F10** Reg. 12(3)(f) substituted (6.4.2001) by The Individual Savings Account (Amendment) Regulations 2001 (S.I. 2001/908), regs. 1, **6(a)**
- F11** Words in reg. 12(3)(f)(i) omitted (6.4.2013) by virtue of The Income Tax (Removal of Ordinary Residence) Regulations 2013 (S.I. 2013/605), regs. 1, **4(4)** (with reg. 2(a))
- F12** Reg. 12(3)(f)(ii) substituted (6.4.2008) by The Individual Savings Account (Amendment) Regulations 2008 (S.I. 2008/704), regs. 1, **10(2)**
- F13** Words in reg. 12(3)(f)(iii) inserted (5.12.2005) by The Tax and Civil Partnership (No. 2) Regulations 2005 (S.I. 2005/3230), regs. 1, **10(4)(a)(i)**
- F14** Words in reg. 12(3)(f) omitted (6.4.2013) by virtue of The Income Tax (Removal of Ordinary Residence) Regulations 2013 (S.I. 2013/605), regs. 1, **4(4)** (with reg. 2(a))
- F15** Words in reg. 12(3)(f) inserted (5.12.2005) by The Tax and Civil Partnership (No. 2) Regulations 2005 (S.I. 2005/3230), regs. 1, **10(4)(a)(ii)**
- F16** Reg. 12(3)(g) omitted (1.11.2011) by virtue of The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(c)(v)**
- F17** Word in reg. 12(4) omitted (1.11.2011) by virtue of The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(d)(i)**
- F18** Reg. 12(4)(e) and preceding comma inserted (1.11.2011) by The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(d)(ii)**
- F19** Reg. 12(4A) inserted (1.11.2011) by The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(e)**
- F20** Reg. 12(5) omitted (6.4.2008) by virtue of The Individual Savings Account (Amendment) Regulations 2007 (S.I. 2007/2119), regs. 1, **16**
- F21** Reg. 12(7) substituted (1.11.2011) by The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(f)**
- F22** Reg. 12(7A) omitted (1.11.2011) by virtue of The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(g)**
- F23** Reg. 12(9)-(11) added (6.4.2001) by The Individual Savings Account (Amendment) Regulations 2001 (S.I. 2001/908), regs. 1, **6(b)**
- F24** Words in reg. 12(9) omitted (8.1.2003) by virtue of The Individual Savings Account (Amendment No. 3) Regulations 2002 (S.I. 2002/3158), regs. 1(2), **5(a)**
- F25** Reg. 12(10) substituted (1.11.2011) by The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(h)**
- F26** Words in reg. 12(11) substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), Sch. 1 para. 24(1)(c)(2)
- F27** Reg. 12(11A) inserted (1.11.2011) by The Individual Savings Account (Amendment No. 2) Regulations 2011 (S.I. 2011/1780), regs. 1, **18(i)**
- F28** Reg. 12(12) substituted (6.4.2014) by The Individual Savings Account (Amendment) Regulations 2014 (S.I. 2014/654), regs. 1(1), **10(a)**
- F29** Reg. 12(12)(13) added (8.1.2003) by The Individual Savings Account (Amendment No. 3) Regulations 2002 (S.I. 2002/3158), regs. 1(2), **5(c)**
- F30** Words in reg. 12(13) omitted (6.4.2014) by virtue of The Individual Savings Account (Amendment) Regulations 2014 (S.I. 2014/654), regs. 1(1), **10(b)**
- F31** Words in reg. 12(13) substituted (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Subordinate Legislation) Order 2005 (S.S.I. 2005/445), arts. 1, 2, **Sch. para. 28**; The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 1(1), **Sch. 2 para. 19**

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**Status:** Point in time view as at 06/04/2014. This version of this provision has been superseded.

**Changes to legislation:** There are currently no known outstanding effects for the The Individual Savings Account Regulations 1998, Section 12. (See end of Document for details)

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**Marginal Citations**

**M1** 1970 c.9; section 95 was amended by section 148 of and Schedule 14 Part VIII to the [Finance Act 1988 \(c.39\)](#), by section 163 of the [Finance Act 1989 \(c.26\)](#) and sections 196 and 199 of, and paragraph 27 of Schedule 19, and Schedule 26 Part V(23), to the [Finance Act 1994 \(c.9\)](#).

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