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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Since 1977 mutual assistance between Member States of the European Community in the field of direct taxation has been undertaken via Council Directive [77/799/EC](#). This directive has been replaced by Council Directive 2011/16/EU, adopted by the Council of the European Union in February 2011, which has effect from 1 January 2013. Most of the new provisions are administrative in effect and do not require legislative provision.

However, regulation 2 meets a new requirement to designate a competent authority and a central liaison office for work concerning the directive.

Regulation 3 permits public authorities to respond to requests under the new directive without breaching prohibitions on disclosure of information.

Under section 18 of the Commissioners for Revenue and Customs Act 2005 ('CRCA') information held by HMRC in connection with its functions is subject to an obligation of non-disclosure, supported in section 19 by a criminal offence of unlawful disclosure. As public authorities may now receive such information from HMRC in order to be able to comply with obligations under the new directive, and the information would not otherwise be restricted in their possession, regulation 4 creates a criminal offence of unlawful disclosure similar to that in section 19 (subject to the lower maximum penalty for summary offences permitted when implementing European Union law by virtue of the European Communities Act 1972).

Regulation 5 provides defences, provides for penalties, and imposes a requirement for consent to prosecute, in England and Wales of the Director of Public Prosecutions, and in Northern Ireland the Director of Public Prosecutions for Northern Ireland or the Commissioners. Under Scottish law the consent of the Lord Advocate (or judicial permission for a private prosecution) would be required.

Regulation 6 changes references in existing legislation to the old directive, to references to the new.

Regulation 7 repeals enactments that with the repeal of the old directive are no longer required (being permission to exchange information now permitted by section 18(3) CRCA, permission to notify instruments for other Member States, for which statutory power is not required, and the deeming of tax to include relevant foreign tax, which is now provided by section 173 Finance Act 2006).

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The European Administrative Co-Operation (Taxation) Regulations 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- Regulations revoked by [2023 c. 28 Sch. 1 Pt. 1](#)