

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

**2016 No. 979**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 These Regulations amend the Data-gathering Powers (Relevant Data) Regulations 2012 to prescribe what data providers of electronic stored-value payment services and business intermediaries may be required to provide to HMRC on receipt of a data-holder notice. Providers of electronic stored-value payment services store monetary value electronically, to pay for transactions to which the provider is not a party. Business intermediaries facilitate and enable transactions between suppliers and their customer or clients. These types of businesses are introduced by the Finance Act 2016 as two new classes of data-holder under Part 2 of Schedule 23 to the Finance Act 2011 ("FA 2011").
- 2.2 These Regulations also amend the relevant data that may be required from merchant acquirers (and similar bodies), which are specified as data-holders in paragraph 13A of Schedule 23, in order to align it with the form of the new provisions as set out in 2.1.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 These Regulations are subject to the negative procedure of the House of Commons because they are not the first regulations made under paragraph 1(3) of Schedule 23 to FA 2011. Paragraph 44(2) of Schedule 23 does not apply and, consequently, these are made under paragraph 44(3) of Schedule 23.
- 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 FA 2011 contains HMRC's data-gathering powers. Persons from whom HMRC may require relevant data 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 Section 176 of the Finance Act 2016 introduces two new categories of relevant data-holder into Part 2 of Schedule 23 to FA 2011 – providers of electronic stored-value payment services and business intermediaries.

## **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 – providers of electronic stored-value payment services and business intermediaries – to provide data that will assist HMRC identify third party businesses who do not declare their full sales.

7.2 Providers of electronic stored-value payment services 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 customers 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 from providers of electronic stored-value payment services and business intermediaries. 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 providers of electronic stored-value payment services, it is restricted to those who receive payments via these services. HMRC does not intend to gather data about individual transactions.

7.5 The kind of information HMRC may require includes information about the accounts money has been transferred into 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 received will be matched with data HMRC already holds to check returns. It will improve HMRC's ability to identify and target those who are underpaying tax, allowing HMRC to compare actual sales made with turnover declared in returns. It will also highlight businesses that have not registered with HMRC for tax, in particular for VAT.

## ***Consolidation***

7.7 There is no current intention to consolidate the amendments to the 2012 Regulations.

## **8. Consultation outcome**

8.1 A consultation document was published by HMRC on 22 July 2015 about the proposals to extend Schedule 23 to FA 2011 to providers of electronic stored-value payment services and business intermediaries. A summary of the responses was published on 9 December 2015. The majority of respondents agreed that data-gathering powers should be updated.

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 closed on 3 February 2016.

## **9. Guidance**

9.1 Relevant guidance will be updated and published.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

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

10.3 A Tax Information and Impact Note covering the parts of this instrument which comprise a change in tax policy was published on 9 December 2015 and is available on the HMRC website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

## **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.

## **12. Monitoring & review**

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

## **13. Contact**

13.1 Angela Roach at HMRC, telephone: 03000 586962 or email: [angela.roach@hmrc.gsi.gov.uk](mailto:angela.roach@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.