

EXPLANATORY MEMORANDUM TO
THE PLATFORM OPERATORS (DUE DILIGENCE AND REPORTING
REQUIREMENTS) REGULATIONS 2023

2023 No. 817

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 This statutory instrument brings into effect the Organisation for Economic Cooperation and Development (OECD) Model Reporting Rules for Digital Platforms (MRDP) and will require United Kingdom (UK) digital platform operators to report details of their sellers to HMRC. The instrument sets out, either directly or by reference to the requirements in the published OECD rules, the information platforms will need to collect and verify, the actions they will be required to take and the penalties for failing to comply with the requirements.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 In July 2020, the OECD published the MRDP. The MRDP is a set of template rules applying to digital platform operators for participating OECD jurisdictions to implement in their domestic law.

6.2 Digital platforms are websites or applications that facilitate transactions between sellers and their customers. Originally the MRDP only applied to platforms where sellers provide certain services or rent property, but they were amended in June 2021 to extend their scope to include the sale of goods and transport rental.

6.3 The rules require digital platform operators to collect and verify information about the identity and income of sellers that use their platforms and report this to the tax

authority where the platform is resident. The information will then be exchanged with other participating tax authorities that are also implementing the MRDP.

- 6.4 Platform operators will also have to give their sellers a copy of the information reported.
- 6.5 At the Spring Budget in 2021, the government announced the UK would implement the MRDP.
- 6.6 This instrument is made under powers in section 136 of the Finance Act 2002 and section 349 of the Finance (No. 2) Act 2023 and will bring the MRDP into effect in the UK.

7. Policy background

What is being done and why?

- 7.1 MRDP is designed to help sellers (providers of goods and services) operating on digital platforms to get their tax right, and to help tax authorities identify and tackle cases of non-compliance. The use of such platforms has grown rapidly in the sharing and gig economy; that is, the sharing of assets or services between private individuals and the flexible working that is carried out by freelancers or contractors. This work is not always visible to tax authorities, particularly if the platform is based overseas, and sellers are not always aware of their tax obligations.
- 7.2 The MRDP also promotes international standardised reporting rules for platform businesses which will avoid a patchwork of different domestic requirements.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.3 There are no existing provisions in the UK to target this area of non-compliance in this way.

Why is it being changed?

- 7.4 These new regulations will help sellers operating on digital platforms to get their taxes right, and provide HMRC with information to identify and tackle non-compliance.

What will it now do?

- 7.5 This statutory instrument brings into effect MRDP in the UK with minor modifications to make the rules suitable for the UK. It will require digital platforms to collect, verify and report to HMRC the details and income of individuals or companies selling goods or providing services via their platform. Platforms will also be required to provide a copy of the information to sellers. The information reported by platform operators will be used by HMRC to tackle tax evasion and non-compliance. Where applicable, information will also be exchanged by HMRC with other tax authorities that have agreed to participate in the OECD reporting rules. Penalties may be charged if platform operators fail to meet their obligations.
- 7.6 The rules will come into effect from 1 January 2024.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument does not consolidate other legislation.

10. Consultation outcome

10.1 The government consulted on the implementation of the MRDP from 30 July 2021 to 22 October 2021. HMRC received 28 written responses from a range of stakeholders including platform operators, third party representatives and accountancy firms. Respondents were broadly supportive of the proposals although some had feedback on the specific questions in the consultation. A summary of the consultation responses may be found at the following link:

<https://www.gov.uk/government/consultations/reporting-rules-for-digital-platforms/outcome/reporting-rules-for-digital-platforms-summary-of-responses>

10.2 From 18 October 2022 until 13 December 2022 the government sought technical feedback on a draft of the regulations to ensure they operate as intended. The technical consultation was also used to identify any areas that require further clarification in more detailed guidance.

10.3 HMRC received 9 written responses from a range of stakeholders including platform operators, third party representatives and accountancy firms. Whilst the responses have resulted in some minor amendments to the draft regulations, the majority of respondents have requested further clarification on elements of the regulations which will be covered in guidance.

11. Guidance

11.1 HMRC is working with stakeholders to develop guidance on the application of these regulations. This guidance will be published in HMRC's International Exchange of Information Manual (<https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information>) on gov.uk before the rules come into effect on 1 January 2024.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that businesses that are within scope of the rules as platform operators will incur additional costs. One off costs will include familiarisation with the rules, building new computer systems and training staff. Ongoing costs will include the costs of collecting, verifying and reporting information to HMRC. There is no, or no significant, impact on charities or voluntary bodies, or businesses that are not required to report under these regulations.

12.2 The impact on the public sector is that there will be costs to HMRC to build new computer systems to receive data from platform operators, and to exchange data with other tax authorities.

12.3 A Tax Information and Impact Note covering this instrument will be published alongside the regulations on the gov.uk website at the following link:
<https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is taken to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that the benefits of consistent application of the rules outweigh the potential benefits of any exclusions or exemptions for small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that it will be monitored and reviewed by HMRC in line with wider monitoring of the tax system.

14.2 The instrument does not include a statutory review clause because the legislation relates to tax, and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 James Marshall at HMRC Telephone: 03000 594912 or email: eoi.policy@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 John Shuker, Deputy Director for International Collaboration Transparency, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.