EXPLANATORY MEMORANDUM TO

THE ENFORCEMENT BY DEDUCTION FROM ACCOUNTS (PRESCRIBED INFORMATION) REGULATIONS 2015

2015 No. 1986

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument prescribes the information that must be provided by deposit-taker to HMRC on receipt of an information notice or hold notice under Schedule 8 to the Finance (No.2) Act 2015 (c.33). The prescribed information includes "specified information" about persons with an interest in relevant accounts and "account details" about relevant accounts – these concepts are defined at regulation 2.

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 8 to the Finance (No.2) Act 2015 allows HMRC to enforce the collection of debt directly from the accounts of the relevant debtor – the direct recovery of debt (DRD). HMRC relies on information provided by deposit-takers to carry out this power. The process involves HMRC sending an information notice to a deposit-taker to determine what assets are held by the debtor with the deposit-taker (and in which accounts). Subsequently, HMRC may issue a hold notice to the deposit-taker requiring a hold to be placed on assets for transfer to HMRC pending statutory rights of objection (to HMRC) and appeal (to the County Court) by the debtor.

4.2 These regulations prescribe what information a deposit-taker must provide to HMRC on receipt of either an information notice or hold notice to allow HMRC to determine, whether DRD action is appropriate for the relevant debtor, and whether the process has been carried out correctly.

5. Extent and Territorial Application

5.1 This instrument extends to England, Wales and Northern Ireland.

5.2 This instrument applies to England, Wales and Northern Ireland.

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 At Budget 2014 the Chancellor announced the Government's intentions to introduce new powers to allow HMRC to secure payment of tax and tax credit debts directly from debtors' bank and building society accounts in credit – the direct recovery of debt (DRD). This is to make the tax system fairer by targeting those who have the means to pay what they owe but choose not to do so, despite repeated contact from HMRC.

7.2 Following public consultation, the Government introduced a number of additional safeguards to strengthen the measure and ensure that it only affected the intended minority of debtors with the means to pay what they owe. These safeguards were set out in the Government's consultation response of 21 November 2014 and included a guaranteed face-to-face visit with every debtor whose debts are considered for recovery through the measure.

7.3 HMRC will only take action against debtors who owe at least £1,000 of tax or tax credit debt. HMRC will always leave a minimum aggregate of £5,000 across debtors' accounts, and will only put a hold on funds in affected accounts up to the value of the debt.

8. Consultation outcome

8.1 A public consultation document for DRD was published on 6 May 2014. The formal consultation ran until 29 July 2014. The Government published its response on 21 November 2014, and draft primary legislation was published on 10 December 2014 for further consultation.

9. Guidance

9.1 The Government will publish guidance on DRD to help debtors affected by the measure, deposit-takers in receipt of an information or hold notice, and other interested organisations, understand the processes involved. This will include an explanation of the responsibilities a deposit-taker has in carrying out instructions received from HMRC, and the rights of objection and appeal available to a debtor to whose accounts DRD has been applied.

10. Impact

10.1 The impact on business, charities or voluntary bodies is expected to be negligible. Deposit-takers (e.g. financial institutions) will be required to provide information to HMRC, as specified in these regulations. The administrative costs of doing this are expected to be negligible and the legislation provides for the ability to introduce regulations to enable deposit-takers to re-coup some of their costs by deducting a small administrative fee from debtors' accounts.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument was published on 8 July alongside Financial Bill 2015 and is available on the HMRC website at https://www.gov.uk/government/publications/direct-recovery-of-hm-revenue-and-customs-debts-from-debtors-bank-and-building-society-accounts, a copy is submitted with this Memorandum. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 DRD will be kept under review through regular communication with affected taxpayer groups and businesses. The Government has committed to an HMRC-led review of the measure after two years of operation, to be laid before Parliament.

13. Contact

13.1 Ademola Adetosoye at HM Revenue and Customs (Tel 03000 586040 or email ademola.adetosoye@hmrc.gsi.gov.uk) can answer any queries regarding this instrument.