EXPLANATORY MEMORANDUM TO

THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT NO. 3) REGULATIONS 2013

2013 No. 1743

1. This explanatory memorandum has been prepared by H.M. Revenue and Customs (HMRC) on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument extends the list of qualifying investments for a stocks and shares Individual Savings Account (ISA) to include company shares admitted to trading on a recognised stock exchange in the European Economic Area.

2.2 It removes certain administrative requirements in respect of the transfer of an ISA between ISA account managers where that transfer takes place pursuant to an insurance business transfer scheme or a banking business transfer scheme under Part VII of Financial Services and Markets Act 2000.

2.3 It also amends the definitions of European Economic Area (EEA) Agreement and EEA State used in ISA legislation, and makes minor changes to the categories of children eligible for special Junior ISA provisions in relation to the opening and management of accounts.

3. Matters of special interest to the Select Committee on Statutory Instruments.

3.1 None

4. Legislative Context

4.1 ISA is a tax-advantaged savings account, introduced in 1999. It allows an individual to save through an ISA without being taxed on any income or gains arising from, or received in relation to those savings. The amount an individual may subscribe to an ISA in any one year is prescribed by legislation.

4.2 Sections 694 to 701 of the ITTOIA 2005 allow regulations to be made governing the tax exemptions, investments, administration and management of individual investment plans, such as ISAs. These powers were formerly in sections 333 to 333B of the Income and Corporation Taxes Act 1988. Section 151 of the TCGA 1992 allows regulations to be made entitling investors to relief from capital gains tax on gains accruing under an individual investment plan.

4.3 The Individual Savings Account Regulations 1998 (S.I. 1998/1870) (ISA Regulations), which this statutory instrument amends, were made and laid on 31 July 1998 using powers now in sections 694 to 701 of the ITTOIA 2005 and section 151 of the TCGA 1992.

4.4 ISA regulation 2 concerns interpretation, and provides definitions of "EEA Agreement", "EEA State" and "bulk transfer of accounts" for the purposes of the ISA Regulations. ISA regulation 7 specifies what investments are qualifying investments for a stocks and shares component of an ISA. ISA regulation 2F sets out special provisions for the opening and management of Junior ISAs for certain looked after children. ISA regulations 21 and 21B set out rules and requirements that apply where an ISA is transferred between managers.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 instrument will extend the list of investments that can be purchased, made, or held in a stocks and shares ISA to include company shares admitted to trading on a recognised stock exchange in the EEA. This is designed to promote capital injection for small and medium enterprise equity markets, encourage more investment in growing businesses and extend choice for ISA investors and account managers.

7.2 The instrument will also update the definition of EEA Agreement and EEA State in ISA Regulations in light of changes to the membership of the EEA and in order to ensure consistency with definitions in other enactments.

7.3 The instrument provides an easement in the administrative requirements applicable to the transfer of an ISA between ISA providers where the transfer takes place pursuant to an insurance business transfer scheme or banking business transfer scheme under the Financial Services and Markets Act 2000. This change will remove the requirement on an investor to provide a fresh application to the transferee provider upon transfer, and will therefore remove administrative burdens for both ISA investors and providers.

7.4 The instrument also makes consequential amendments to the special Junior ISA provisions for looked after children, to reflect changes to supervision requirements resulting from the Children's Hearings (Scotland) Act 2011. This will ensure that the special provisions for the opening and management of Junior ISAs for looked after children remain up to date for children subject to supervision requirements in Scotland after 24 June 2013.

- Consolidation

7.5 There are no plans to consolidate the ISA regulations.

8. Consultation outcome

8.1 Consultation on extending the definition of qualifying investments closed on 8 May 2013. The Government's summary of responses to this consultation was published on 1 July and can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209879/isa_qualifying_investments_summary_of_consultation_responses.pdf. The Department for Education and the Scottish Government have been consulted on changes consequent to the Children's Hearings (Scotland) Act 2011. No adverse comments or difficulties have been identified. The remaining changes in the instrument concern minor updates, for which detailed consultation was not necessary.

9. Guidance

9.1 HMRC's Guidance Notes for ISA managers will be updated to reflect the changes to the ISA rules. The Guidance Notes are available at http://www.hmrc.gov.uk/isa/isa-guidance-notes.pdf

10. Impact

10.1 The impact on charities and voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

11. Regulating small business

11.1 The legislation applies to small businesses that offer ISAs. In addition, extending the range of investments which can be held in a stocks and shares ISA could increase investment in smaller firms. Removing administrative requirements in relation to certain ISA transfers could reduce ISA provider costs.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, H.M. Revenue & Customs discusses and reviews operational processes with account providers and their representatives, and considers proposals for change.

11.3 The basis for the final decision on what action to take to assist small businesses is whether any action would be consistent with requirements set out in the ISA Regulations 1998. The ISA requirements are considered to be the minimum necessary for the effective operation and assurance of ISAs.

12. Monitoring & review

12.1 HMRC will continue to review compliance with the ISA rules using the information provided annually by ISA managers.

13. Contact

Simon Turner at H.M. Revenue and Customs can answer queries regarding the instrument on behalf of HM Treasury- Tel: 0300 054 6588 or email: simon.turner@hmrc.gsi.gov.uk.