

EXPLANATORY MEMORANDUM TO
THE STATISTICS AND REGISTRATION SERVICE ACT 2007
(DISCLOSURE OF VALUE ADDED TAX INFORMATION) REGULATIONS
2011

2011 No. 2878

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The Regulations permit the sharing of Value Added Tax (VAT) information between Her Majesty's Revenue and Customs (HMRC) and the Statistics Board.

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

3.1 None

4. **Legislative Context**

4.1 The Regulations are made under section 47 of the Statistics and Registration Service Act 2007 ("the Act"), which received Royal Assent in July 2007. It created a new non-ministerial department, the Statistics Board (which has chosen to operate under the name 'UK Statistics Authority' and hereinafter referred to as 'the Authority'). The functions of the Authority include the production of business and economic statistics under section 20 of the Act and under section 47, regulations may be made to authorise a public authority to disclose information to the Authority, which would not otherwise be possible, to enable the Authority to carry out its statutory functions.

4.2 These regulations allow the disclosure of certain VAT information by HMRC to the Authority to improve business and economic statistics. The disclosure of these data will also reduce the burden on businesses as they will no longer need to supply this information through regular returns to the

Authority.

4.3 The regulation making power will be exercised for the fourth time in order to make these regulations. The previous uses of this power were in February 2009, when the Statistics and Registration Service Act 2007 (Disclosure of Pupil Information) (England) Regulations 2009 (the “England Regulations”) were made; and November 2009, when the Statistics and Registration Service Act 2007 (Disclosure of Higher Education Student Information) Regulations 2009 (the “Higher Education Regulations”) were made. The Statistics and Registration Service Act 2007 (Disclosure of Pupil Information by Welsh Ministers) Regulations 2011 were laid before Parliament on 19 July 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Francis Maude, the Minister for the Cabinet Office, has made the following statement regarding Human Rights:

In my view the provisions of the Statistics and Registration Service Act 2007 (Disclosure of Value Added Tax Information) Regulations 2011 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 Accurate and timely statistics, including those on the economy and businesses, are crucial for good Government. They inform the formulation, monitoring and reviewing of policy. Outside Government such statistics are necessary for the effective and efficient running of business and other organisations. Access to, and use of, VAT data is central to this work.

7.2 All VAT-registered businesses are required to submit monthly, quarterly or annual VAT returns to HMRC. The data required include the total

taxable turnover, i.e. the value of the business' sales (exclusive of VAT), total expenditure i.e. value of purchases (exclusive of VAT), and the net VAT which the businesses are required to pay to HMRC or which is being reclaimed from HMRC.

7.3 HMRC already provides the Authority with certain record-level data from their business returns, covering business identification, demographic status and taxable turnover. The disclosure is authorised under section 91(1) of the Value Added Tax Act 1994. Access to the data to be shared under these regulations, which otherwise the Authority would not be able to access, would help the Authority improve its economic and business statistics and reduce the burden on business in providing some data collected through the Authority's business surveys.

7.4 More specifically, the VAT expenditure data will be used with the data already received from HMRC for economic analysis and to improve sample selection, editing, validation, imputation and estimation processes for various business surveys run by the Authority. The other information to be shared under the regulations, the date of the receipt of businesses' VAT returns by HMRC, will be used to improve the methodology employed to produce economic statistics.

7.5 The regulations allow the Authority to receive information provided to HMRC in VAT returns submitted on or after 1st October 1985. This long run of data will be used to provide a better understanding of economic cycles.

7.6 Although access to individual business information is necessary for the purposes outlined above, the Authority will not publish any information which could identify an individual business. Section 39 of the Act makes it an offence for a member or an employee of the Board to disclose personal information held by the Authority, subject to the exceptions provided for in subsection (4). Regulation 5 modifies the application of section 39 to place further restrictions on the circumstances in which information may be disclosed by the Authority.

- ***Consolidation***

7.7 This instrument does not amend any other instrument, so no issue of

consolidation arises.

8. Consultation outcome

8.1 These Regulations are made with the consent of Treasury Ministers following consultation with the Commissioners for HMRC. The Cabinet Office consulted closely with the Authority, the Treasury and HMRC in drafting these Regulations.

9. Guidance

9.1 The Cabinet Office, HMRC, and the Authority will take forward the implementation of the Regulations. The Authority will publish the business case for this data sharing and the Privacy Impact Assessment in early October.

10. Impact

10.1 There is a beneficial impact on businesses, as they will no longer be required to submit certain statistical returns containing VAT information to the Authority, and no impact on charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The effect of sharing VAT information on the Authority's production of economic and business statistics and economic analysis will be subject to internal review after 12 months and the legislation may be amended accordingly.

13. Contact

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shaun.flanagan@cabinet-office.x.gsi.gov.uk can answer any queries regarding the instrument.

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