

**EXPLANATORY MEMORANDUM TO**  
**THE INCOME TAX (MONITORING SCHEMES RELATING TO**  
**VULNERABLE PERSONS) ORDER 2013**

**2013 No. 1133**

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

**2. Purpose of the instrument**

2.1 This instrument amends section 326A of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). This section provides for an exemption from income tax for a taxable benefit that arises as the result of an employer paying or reimbursing fees relating to monitoring schemes for vulnerable persons and currently covers fees for joining the Protection of Vulnerable Groups Scheme in Scotland.

2.2 The changes introduce an exemption in England and Wales for fees payable for up-dating certificates, and fees for criminal record certificates and enhanced criminal record certificates where the application is made at the same time the employee applies to join the up-date service or where a person already holds a certificate that is subject to up-dating arrangements.

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

3.1 None.

**4. Legislative Context**

4.1 This Order is made by the Treasury under section 326A(2) ITEPA, and it is the first use of those powers.

4.2 The up-date services being introduced by the Disclosure and Barring Scheme (DBS) in England and Wales will allow any employer or prospective employer to check an individual's status, so where the annual fee for up-dating is paid or reimbursed by the employer, a taxable benefit arises. Criminal records certificates will also be made available to any employer or prospective employer to check during the period that the up-date service applies, and these fees would also be treated as a taxable benefit if an employer pays or reimburses the cost. This Order removes the liability.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

The Exchequer Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Income Tax (Monitoring Schemes Relating to Vulnerable Persons) Order 2013 are compatible with the Convention rights.

## **7. Policy background**

- *What is being done and why*

7.1 In the Finance Act 2011, the Government introduced a relief in respect of fees payable for schemes to monitor vulnerable persons. This reflected the introduction of the Protection of Vulnerable Groups Scheme in Scotland. The Government took order-making powers to amend the legislation, which covers situations where other administrations in the UK introduce similar schemes.

7.2 The Home Office has been reviewing the scope of the criminal records regime and the DBS was launched in England and Wales as part of this on 1 December 2012. An individual can choose to subscribe to the up-date service provided by the DBS for 12 months by paying a fee. Membership of the up-date service allows different employers and potential employers to check the individual's status position during the period of membership. As such, if this fee is paid or reimbursed by the employer, it would be treated as a taxable benefit. The up-date service is being introduced from 10 June 2013.

7.3 As a consequence, criminal records certificates of all kinds which are applied for at the same time as the application to join the up-date service, or where a person already holds a certificate that is subject to up-dating arrangements, will be accessible by any employer for the remainder of the 12 month period. Where an employer pays or reimburses the cost of fees for criminal records certificates applied for during that period, it would be treated as a taxable benefit.

7.4 In order to prevent the burden of administrative costs falling on employers who would have to record and report this benefit, the Government has introduced an exemption from income tax for fees paid where an individual has applied or holds an active subscription for the up-date service.

## **8. Consultation outcome**

8.1 This Order has not been consulted on – it is wholly relieving.

## **9. Guidance**

9.1 The relevant HMRC guidance will be amended in line with this Order.

## **10. Impact**

10.1 No impact on business is foreseen.

10.2 No impact on the public sector is foreseen.

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 There will be no impact on small business. HMRC will amend their external guidance to support employers and employees.

## **12. Monitoring and Review**

12.1 This policy will be monitored and assessed alongside other measures in the Government's package of personal tax and benefits changes.

## **13. Contact**

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