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STATUTORY INSTRUMENTS

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**2003 No. 2682**

**The Income Tax (Pay As You Earn) Regulations 2003**

PART 10

COMMUNICATIONS

CHAPTER 1

ELECTRONIC COMMUNICATIONS: INTERPRETATION

**Meaning of electronic communications etc**

**189.** In these Regulations—

“approved method of electronic communications”, in relation to the delivery of information or the making of a payment in accordance with a provision of these Regulations, means a method of electronic communications which has been approved, by specific or general directions issued by the Board of Inland Revenue, for the delivery of information of that kind or the making of a payment of that kind under that provision;

“electronic communications” has the meaning given in section 132(10) of the Finance Act 1999<sup>(1)</sup>;

“official computer system” means a computer system maintained by or on behalf of the Board of Inland Revenue or an officer of the Board.

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**Commencement Information**

**11** [Reg. 189](#) in force at 6.4.2004, see [reg. 1](#)

**Specified date**

**190.**—(1) For the purposes of Chapters 3 and 4, the Board of Inland Revenue may announce each tax year a date (“the specified date”) for the following tax year.

(2) Any announcement must be made by means of a direction no later than 30th November in a tax year.

(3) The specified date for a tax year applies in respect of specified payments due to be made in respect of that year and specified information required to be delivered in respect of that year.

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**Commencement Information**

**12** [Reg. 190](#) in force at 6.4.2004, see [reg. 1](#)

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)*

### Large and medium sized employers

**191.**—(1) “Large employer” means an employer treated as paying PAYE income to 250 or more employees at the specified date.

(2) “Large or medium sized employer” means an employer treated as paying PAYE income to 50 or more employees at the specified date.

(3) An employer is treated as paying PAYE income to an employee at the specified date if the employer—

- (a) is required at that date by these Regulations <sup>F1</sup>... to prepare or maintain a deductions working sheet in respect of the employee, and
- (b) has not sent to the Inland Revenue Part 1 of Form P45 in respect of that employee.

#### Textual Amendments

**F1** Words in reg. 191(3)(a) omitted (6.4.2006) by virtue of [The Income Tax \(Pay As You Earn, etc.\), \(Amendment\) Regulations 2006 \(S.I. 2006/777\)](#), regs. 1(1), 4

#### Commencement Information

**I3** [Reg. 191](#) in force at 6.4.2004, see [reg. 1](#)

## CHAPTER 2

### ELECTRONIC COMMUNICATIONS: GENERAL

#### Whether information has been delivered electronically

**192.** For the purpose of these Regulations, information is taken to have been delivered to an official computer system by an approved method of electronic communications only if it is accepted by that official computer system.

#### Commencement Information

**I4** [Reg. 192](#) in force at 6.4.2004, see [reg. 1](#)

#### Proof of content of electronic delivery

**193.**—(1) A document certified by the Inland Revenue to be a printed-out version of any information delivered by an approved method of electronic communications is evidence, unless the contrary is proved, that the information—

- (a) was delivered by an approved method of electronic communications on that occasion, and
- (b) constitutes everything which was delivered on that occasion.

(2) A document which purports to be a certificate given in accordance with paragraph (1) is presumed to be such a certificate unless the contrary is proved.

#### Commencement Information

**I5** [Reg. 193](#) in force at 6.4.2004, see [reg. 1](#)

## Proof of identity of person sending or receiving electronic delivery

194. The identity of—

- (a) the person sending any information delivered by an approved method of electronic communications to the Inland Revenue, or
- (b) the person receiving any information delivered by an approved method of electronic communications by the Inland Revenue,

is presumed, unless the contrary is proved, to be the person recorded as such on an official computer system.

### Commencement Information

I6 Reg. 194 in force at 6.4.2004, see [reg. 1](#)

## Information sent electronically on behalf of a person

195.—(1) Any information delivered by an approved method of electronic communications—

- (a) to the Inland Revenue, or
- (b) to an official computer system,

on behalf of a person is taken to have been delivered by that person.

(2) But this does not apply if the person proves that the information was delivered without the person's knowledge or connivance.

### Commencement Information

I7 Reg. 195 in force at 6.4.2004, see [reg. 1](#)

## Proof of delivery of information sent electronically

196.—(1) The use of an approved method of electronic communications is presumed, unless the contrary is proved, to have resulted in the delivery of information—

- (a) to the Inland Revenue, if the delivery of the information has been recorded on an official computer system;
- (b) by the Inland Revenue, if the despatch of the information has been recorded on an official computer system.

(2) The use of an approved method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the delivery of information—

- (a) to the Inland Revenue, if the delivery of the information has not been recorded on an official computer system;
- (b) by the Inland Revenue, if the despatch of the information has not been recorded on an official computer system.

(3) The time of receipt or despatch of any information delivered by an approved method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)*

**Commencement Information**

**18** [Reg. 196](#) in force at 6.4.2004, see [reg. 1](#)

**Proof of payment sent electronically**

**197.**—(1) The use of a method of electronic communications is presumed, unless the contrary is proved, to have resulted in the making of a payment—

- (a) to the Inland Revenue, if the making of the payment has been recorded on an official computer system;
- (b) by the Inland Revenue, if the despatch of the payment has been recorded on an official computer system.

(2) The use of a method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the making of a payment—

- (a) to the Inland Revenue, if the making of the payment has not been recorded on an official computer system;
- (b) by the Inland Revenue, if the despatch of the payment has not been recorded on an official computer system.

(3) The time of receipt or despatch of any payment sent by a method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

(4) In this regulation, “the Inland Revenue” means the Board of Inland Revenue or any officer of the Board.

**Commencement Information**

**19** [Reg. 197](#) in force at 6.4.2004, see [reg. 1](#)

**Use of unauthorised method of electronic communications**

**198.**—(1) This regulation applies to information which is required to be delivered to the Board of Inland Revenue or to the Inland Revenue under a provision of these Regulations.

(2) The use of a method of electronic communications for the purpose of delivering such information is conclusively presumed not to have resulted in the delivery of that information, unless that method of electronic communications is for the time being approved for delivery of information of that kind under that provision.

**Commencement Information**

**110** [Reg. 198](#) in force at 6.4.2004, see [reg. 1](#)

CHAPTER 3

ELECTRONIC PAYMENT BY LARGE EMPLOYERS

**Large employers required to make specified payments electronically**

**199.**—(1) A large employer to whom an e-payment notice in respect of a tax year has been issued must use an approved method of electronic communications to make specified payments.

(2) “Specified payments”, in this Chapter, means payments of tax under regulation 68 (periodic payments to and recoveries from the Revenue) in respect of tax months in the tax year to which the e-payment notice relates.

(3) The Board of Inland Revenue may give specific or general directions—

- (a) suspending, for any period during which the use of an approved method of electronic communications for the making of specified payments is impossible or impractical, any requirement imposed by these Regulations relating to the use of such methods,
- (b) substituting alternative requirements for the suspended ones, and
- (c) making any provision that is necessary in consequence of the imposition of the substituted requirements.

[<sup>F2</sup>(4) This regulation does not apply to a payment of tax in respect of retrospective employment income for a closed year.]

#### Textual Amendments

**F2** [Reg. 199\(4\)](#) added (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, 17

#### Commencement Information

**I11** [Reg. 199](#) in force at 6.4.2004, see [reg. 1](#)

### E-payment notices and appeal

**200.**—(1) “E-payment notice” means a notice issued by the Inland Revenue in respect of a tax year that the employer is a large employer and accordingly is required to use an approved method of electronic communications for the making of specified payments.

(2) An e-payment notice in respect of a tax year must be issued by 31st December following the specified date for that tax year.

(3) An employer may appeal against an e-payment notice by giving notice to the Inland Revenue within 30 days of the issue of the e-payment notice.

(4) The grounds of appeal are that the employer is not a large employer.

(5) If the appeal is successful the e-payment notice must be withdrawn.

(6) Regulation 217 (appeals: supplementary provisions) applies to appeals under this regulation.

#### Commencement Information

**I12** [Reg. 200](#) in force at 6.4.2004, see [reg. 1](#)

### Employer in default if specified payment not received by applicable due date

**201.**—(1) This regulation applies if an employer is required to make a specified payment by an approved method of electronic communications in accordance with regulation 199.

(2) The employer is in default if the specified payment is not received in full by the Inland Revenue (whether by an approved method of electronic communications or otherwise) on or before the date by which that payment is required in accordance with regulation 69 (due date for payments of tax).

(3) But the employer is not in default if—

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)*

- (a) the employer had a reasonable excuse for failing to make the specified payment in a manner which secures that it is received in full by the Inland Revenue on or before the applicable due date, and
- (b) the specified payment is received in full by the Inland Revenue without unreasonable delay after the excuse ceased.

(4) Inability to pay is not a reasonable excuse for the purposes of paragraph (3)(a).

(5) A payment is not treated as received in full by the Inland Revenue on or before the date by which that payment is required in accordance with regulation 69 unless it is made in a manner which secures (in a case where the payment is made otherwise than in cash) that, on or before that date, all transactions can be completed which need to be completed before the whole amount of the payment becomes available to the Inland Revenue.

#### Commencement Information

I13 [Reg. 201](#) in force at 6.4.2004, see [reg. 1](#)

### Default notice and appeal

**202.**—(1) The Inland Revenue must issue a default notice to any person who appears to be in default under regulation 201 in respect of a specified payment.

(2) A person may appeal against a default notice by giving notice to the Inland Revenue within 30 days of the issue of the default notice.

(3) The grounds of appeal are—

- (a) that the person is not in default, or
- (b) that the person is not a large employer, subject to paragraph (5).

(4) If the appeal is successful the default notice must be withdrawn.

(5) Paragraph (3)(b) does not apply if, following an appeal under regulation 200, the e-payment notice was not withdrawn.

(6) Regulation 217 (appeals: supplementary provisions) applies to appeals under this regulation.

#### Commencement Information

I14 [Reg. 202](#) in force at 6.4.2004, see [reg. 1](#)

### Default surcharge

**203.**—(1) An employer in default in respect of any specified payment to whom—

- (a) a default notice under regulation 202, and
- (b) a surcharge notice under regulation 204,

have been issued, is liable to a surcharge.

(2) The surcharge is the sum of the surcharges, calculated in accordance with paragraph (3), in respect of each default relating to the tax year in which were made the relevant payments to which the specified payment referred to in paragraph (1) relates.

(3) The surcharge in respect of each default is the specified percentage of (A – B).

(4) In paragraph (3)—

- (a) A is the total amount of tax due for the tax year in which the relevant payments to which the specified payment relates were made;
- (b) B is the total of the amounts deducted from A under—
  - <sup>F3</sup>(i) . . . . .
  - (ii) regulations 4, 5 and 6 of the Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations 1994<sup>(2)</sup>,
  - (iii) regulations 3 and 5 of the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002<sup>(3)</sup>, and
  - (iv) regulation 44B of the Income Tax (Sub-contractors in the Construction Industry) Regulations 1993<sup>(4)</sup>;
- (c) the specified percentage is determined by reference to the number of the default during a surcharge period in accordance with Table 8.

**Table 8**

Specified percentage for each default in a surcharge period

| <i>1. Default number (within a surcharge period)</i> | <i>2. Specified percentage</i> |
|--|--------------------------------|
| 1st  | 0%                             |
| 2nd  | 0%                             |
| 3rd  | 0.17%                          |
| 4th  | 0.17%                          |
| 5th  | 0.17%                          |
| 6th  | 0.33%                          |
| 7th  | 0.33%                          |
| 8th  | 0.33%                          |
| 9th  | 0.58%                          |
| 10th   | 0.58%                          |
| 11th   | 0.58%                          |
| 12th and subsequent defaults                         | 0.83%                          |

- (5) A surcharge period is a period which—
  - (a) begins on the day following the date by which payment is required in accordance with regulation 69 for the first specified payment in respect of which the employer is in default, and
  - (b) ends at the end of a tax year in relation to which the employer has not been in default in respect of any specified payment.
- (6) A surcharge payable under this regulation is payable 30 days after the issue of the surcharge notice.

(2) S.I.1994/1882, amended by S.I. 2003/672.  
 (3) S.I. 2002/2820.  
 (4) S.I. 1993/743, amended by S.I. 2003/536.

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)*

(7) Section 102 of TMA(5) (mitigation of penalties) applies to a surcharge payable under this regulation as if it were a penalty.

#### Textual Amendments

**F3** Reg. 203(4)(b)(i) omitted (6.4.2006) by virtue of [The Income Tax \(Pay As You Earn, etc.\), \(Amendment\) Regulations 2006 \(S.I. 2006/777\)](#), regs. 1(1), 5

#### Commencement Information

**I15** Reg. 203 in force at 6.4.2004, see [reg. 1](#)

### Surcharge notice and appeal

**204.**—(1) The Inland Revenue must issue a surcharge notice to an employer who has been in default on three or more occasions during a surcharge period and consequently will be liable to a surcharge under regulation 203.

(2) The surcharge notice must show the total surcharge liability for the tax year.

(3) The surcharge notice must be issued within 6 years of—

(a) the end of the tax year, or

(b) if earlier, the date on which the employer delivered a return in accordance with regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)).

(4) An employer may appeal against a surcharge notice by giving notice to the Inland Revenue within 30 days of the issue of the surcharge notice.

(5) The grounds of appeal are—

(a) that the number of defaults stated in the notice is incorrect, or

(b) that the amount of the surcharge is incorrect.

(6) But paragraph (5)(a) does not apply in respect of a disputed default which has already been the subject of an appeal under regulation 202, following which the default notice was not withdrawn.

(7) Parts 4, 5 and 6 of TMA (assessment, appeals, collection and recovery) apply to the surcharge notice as if it were an assessment and the amount of the surcharge was tax charged by the assessment, subject to paragraphs (4), (5) and (8).

(8) On an appeal section 50(6) to (8) of TMA (procedure) do not apply, but the [<sup>F4</sup>tribunal] may—

(a) if it appears <sup>F5</sup>... that no surcharge has been incurred, set the surcharge notice aside,

(b) if the amount of the total surcharge liability appears <sup>F6</sup>... to be correct, confirm the surcharge notice, or

(c) if the amount of the total surcharge liability appears <sup>F7</sup>...to be incorrect, increase or reduce it to the correct amount.

(9) Regulation 217(3) (appeals: supplementary provisions) applies to appeals under this regulation.

(5) Section 102 was amended by section 168(4) of the Finance Act 1989 (c. 26).



#### Textual Amendments

- F4** Word in reg. 204(8) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 110(2)**
- F5** Words in reg. 204(8)(a) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 110(3)**
- F6** Words in reg. 204(8)(b) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 110(3)**
- F7** Words in reg. 204(8)(c) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 2 para. 110(3)**

#### Commencement Information

- I16** Reg. 204 in force at 6.4.2004, see **reg. 1**

## CHAPTER 4

### MANDATORY USE OF ELECTRONIC COMMUNICATIONS

#### Mandatory use of electronic communications

**205.**—(1) A specified employer must deliver specified information by an approved method of electronic communications to the Inland Revenue.

(2) The Board may make a general or specific direction requiring a specified employer to deliver specified information by a particular approved method of electronic communication.

(3) Specified information may be delivered under this regulation by a person on behalf of a specified employer.

(4) References in this Chapter to information and to the delivery of information must be construed in accordance with section 135(8) of the Finance Act 2002(6) (mandatory e-filing).

(5) This regulation applies in relation to specified information—

- (a) in respect of the tax year ending 5th April 2005, for specified employers who are large employers,
- (b) in respect of the tax year ending 5th April 2006 and subsequent tax years, for specified employers who are large or medium sized employers.

[<sup>F8</sup>This is subject to the following qualification.]

[<sup>F9</sup>(6) This regulation does not apply to specified information which relates to payments of tax due under a retrospective tax provision for a closed year.]

#### Textual Amendments

- F8** Words in reg. 205(5) added (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **18(2)**
- F9** Reg. 205(6) added (6.4.2007) by The Income Tax (Pay as You Earn) (Amendment) Regulations 2007 (S.I. 2007/1077), regs. 1, **18(3)**

#### Commencement Information

- I17** Reg. 205 in force at 6.4.2004, see **reg. 1**

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)*

### Specified employers

**206.**—(1) In this Chapter, “specified employer” means—

- (a) a large employer, or
- (b) a large or medium sized employer,

to whom an e-filing notice for a tax year has been issued by 31st December following the specified date for the tax year.

(2) But the following are not specified employers—

- (a) an individual who is a practising member of a religious society or order whose beliefs are incompatible with the use of electronic communications,
- (b) a partnership, if all the partners fall within sub-paragraph (a), and
- (c) a company, if all the directors and the company secretary fall within sub-paragraph (a).

(3) In paragraph (2)(c), “company” means a body corporate or unincorporated association but does not include a partnership.

#### Commencement Information

**I18** Reg. 206 in force at 6.4.2004, see [reg. 1](#)

### Specified information

**207.**—(1) In this Chapter, “specified information” means the return and accompanying information required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)).

(2) But specified information does not include information supplied under special arrangements for the collection of tax made under regulation 141 (direct collection and special arrangements).

#### Commencement Information

**I19** Reg. 207 in force at 6.4.2004, see [reg. 1](#)

### E-filing notice and appeals

**208.**—(1) In this Chapter, “e-filing notice” means a notice issued by the Inland Revenue in respect of a tax year that an employer—

- (a) is a large or a large or medium sized employer, and
- (b) does not fall within regulation 206(2) (religious objection),

and accordingly is required to use an approved method of electronic communications for the delivery of specified information for the tax year.

(2) An employer may appeal against an e-filing notice by notice to the Inland Revenue within 30 days of the issue of the e-filing notice.

- (3) The grounds of appeal are that the employer does not satisfy the description specified.
- (4) If an appeal is successful the e-filing notice must be withdrawn.
- (5) Regulation 217 (appeals: supplementary provisions) applies to appeals under this regulation.

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#### Commencement Information

**I20** Reg. 208 in force at 6.4.2004, see [reg. 1](#)

#### Standards of accuracy and completeness

**209.**—(1) Specified information delivered by a method of electronic communications must meet the standards of accuracy or completeness set by specific or general directions given by the Board of Inland Revenue.

(2) Specified information which fails to meet those standards must be treated as not having been delivered.

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#### Commencement Information

**I21** [Reg. 209](#) in force at 6.4.2004, see [reg. 1](#)

#### Penalties and appeals

**210.**—(1) A specified employer who fails to deliver specified information or any part of it in accordance with regulation 205 is liable to a penalty.

(2) Table 9 sets out the penalties for specified employers for the tax years ending 5th April 2005 to 5th April 2009, depending on the number of employees for whom particulars should have been included with the specified information.

**Table 9**

Penalties: tax years ending 5th April 2005 to 5th April 2009

| <i>1. Number of employees for whom particulars should have been included with the specified information</i> | <i>2. Penalty</i>  |
|---|--|
| 1 – 49  | nil  |
| 50 – 249  | nil for tax year ending 5th April 2005,<br>£600 for subsequent tax years |
| 250 – 399   | £900   |
| 400 – 499   | £1,200   |
| 500 – 599   | £1,500   |
| 600 – 699   | £1,800   |
| 700 – 799   | £2,100   |
| 800 – 899   | £2,400   |
| 900 – 999   | £2,700   |
| 1000 or more  | £3,000   |

**Status:** Point in time view as at 01/04/2009.

**Changes to legislation:** There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)

(3) An employer is not liable to a penalty if the employer had a reasonable excuse for failing to comply with regulation 205 which had not ceased at the time the specified information was delivered.

(4) A notice of appeal against a determination under section 100 of TMA(7) of a penalty under this regulation can only be on the grounds that—

- (a) the employer is not a specified employer, subject to paragraph (5),
- (b) the employer did comply with regulation 205,
- (c) the amount of the penalty is incorrect, or
- (d) paragraph (3) applies.

(5) An employer may not appeal on the grounds that the employer is not a specified employer if the employer has already appealed under regulation 208(2) (appeal against e-filing notice).

(6) Section 103A of TMA(8) (interest on penalties) applies to penalties payable under this regulation.

#### Commencement Information

**I22** [Reg. 210](#) in force at 6.4.2004, see [reg. 1](#)

## CHAPTER 5

### METHODS OF PROVIDING INFORMATION ETC

#### How information must or may be delivered by employers

**211.—**(1) Table 10 applies to determine how employers must or may comply with the requirements of the regulations listed in column 1.

(2) The requirements of the regulation must be complied with in a document or format provided or approved by the Board of Inland Revenue if so indicated in column 4.

(3) Where appropriate, the relevant form number is listed in column 3.

(4) Instead of sending a document to the Inland Revenue, the requirements of the regulation may be complied with by an employer arranging for the information it would contain to be delivered to the Inland Revenue by an approved method of electronic communications if so indicated in column 5.

**Table 10**

Regulations which require approved document or format, and which permit electronic delivery

| <i>1.</i><br><i>Regulation</i> | <i>2.</i><br><i>Description of<br/>information</i>    | <i>3.</i><br><i>Form number</i> | <i>4.</i><br><i>Approved<br/>document or<br/>format</i> | <i>5.</i><br><i>Electronic<br/>communications</i> |
|--------------------------------|---|---------------------------------|---|---|
| 35(3), (4), (5)(a)             | simplified deduction scheme: deductions working sheet | Form P12                        | yes   | yes   |

(7) Section 100 was substituted by section 167 of the Finance Act 1989 (c. 26) and amended by S.I. 1994/1813.

(8) Section 103A was inserted by paragraph 33 of Schedule 19 to the Finance Act 1994 (c. 9).

| <i>1.<br/>Regulation</i> | <i>2.<br/>Description of<br/>information</i>                              | <i>3.<br/>Form number</i> | <i>4.<br/>Approved<br/>document or<br/>format</i> | <i>5.<br/>Electronic<br/>communications</i> |
|--------------------------|---|---------------------------|---|---|
| 35(5)(b)                 | simplified deductions scheme: annual return of deductions working sheets  | Form P37                  | yes   | yes   |
| 36(1), (2)(a)            | cessation of employment   | Form P45, Part 1          | yes   | yes   |
| 36(1), (2)(b)            | cessation of employment   | Form P45, Parts 1A, 2, 3  | yes   | no  |
| 38(1)                    | death of employee   | Form P45, Part 1          | yes   | yes   |
| 39(1)                    | death of pensioner  | Form P45, Part 1          | yes   | yes   |
| 42(8)                    | procedure if new employer receives Form P45                               | Form P45, Part 3          | yes   | yes   |
| 46(4), 47(2)(a)          | information to be provided if code not known                              | Form P46                  | yes   | yes   |
| 48(2)(a)                 |   |                           |   |   |
| 49(2)(a)                 |   |                           |   |   |
| 52(3)                    | late presentation of Form P45   | Form P45, Part 3          | yes   | yes   |
| 55(3)(a)                 | retirement statement  | Form P160                 | no  | yes   |
| 56(3)                    | procedure if new pension payer receives Form P45                          | Form P45, Part 3          | yes   | yes   |
| 57(2)                    | information to be provided if code not known (non-UK resident pensioners) | Form P46                  | yes   | yes   |
| 58(3)                    | information to be provided if code not known (UK resident pensioners)     | Form P46                  | yes   | yes   |
| 60(3)                    | late presentation of Form P45   | Form P45, Part 3          | yes   | yes   |

*Status: Point in time view as at 01/04/2009.**Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)*

| <i>1.<br/>Regulation</i> | <i>2.<br/>Description of<br/>information</i>                                  | <i>3.<br/>Form number</i> | <i>4.<br/>Approved<br/>document or<br/>format</i> | <i>5.<br/>Electronic<br/>communications</i> |
|--------------------------|---|---------------------------|---|---|
| 67(1)                    | information to employees about payments and tax deducted                      | Form P60                  | yes   | no  |
| 73                       | annual return of relevant payments liable to deduction of tax                 | Forms P35 and P14         | yes   | yes   |
| [ <sup>F10</sup> 73A     | annual return of relevant payments by virtue of a retrospective tax provision | Form P35 (RL              | yes   | no]   |
| 74                       | annual return of relevant payments not liable to deduction of tax             | Form P38A                 | yes   | yes   |
| 77(4)                    | return of tax for which employer is liable under regulation 68                | Form P100                 | yes   | no  |
| 85(1)(a)                 | employers: annual return of other PAYE income                                 | Form P9D                  | yes   | no  |
| 85(1)(a) and (b)         | employers: annual return of other PAYE income: benefits code employee         | Form P11D                 | yes   | yes   |
| 85(2)                    | employers: annual return of other PAYE income: declaration                    | Form P11D(b)              | yes   | yes   |
| 90(2)                    | quarterly return of cars becoming available or unavailable                    | Form P46 (car)            | yes   | yes   |
| 129(1)                   | reserve forces' pay: certificate of tax deducted                              | Form P59                  | yes   | no  |

| <i>1.<br/>Regulation</i> | <i>2.<br/>Description of<br/>information</i>   | <i>3.<br/>Form number</i> | <i>4.<br/>Approved<br/>document or<br/>format</i> | <i>5.<br/>Electronic<br/>communications</i> |
|--------------------------|--|---------------------------|---|---|
| 132(1)                   | reserve forces' pay: end of year certificate   | Form P60                  | yes   | no  |
| 137(1)                   | holiday pay funds: certificate of tax deducted   | Form P403                 | yes   | no  |
| 152(2)                   | deductions working sheet for claimants awarded taxable JSA                                   | Form PB8                  | yes   | no  |
| 153(9)                   | Department's return for claimant who delivers Form P45                                       | Forms PB3 and P45 Part 3  | yes   | no  |
| 154(2)                   | Department's return for claimant who does not deliver Form P45                               | Form PB3                  | yes   | no  |
| 157(2)(b)                | claimant's end of year certificate   | Form P60U                 | yes   | no  |
| 157(2)(c)                | Department's end of year return  | Form P14U                 | yes   | no  |
| 159(2)                   | cessation of award of JSA  | Form P45U                 | yes   | no  |
| 160(2)(b)                | Department's notification of taxable JSA adjustment  | Form P180                 | yes   | no  |
| 164(2)                   | Department's quarterly statement to Board of receipts and payments in respect of taxable JSA | –                         | yes   | no  |
| [ <sup>F11</sup> 184D    | deductions working sheet for claimants awarded taxable ESA                                   | Form PB8                  | yes   | no  |

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS. (See end of Document for details)*

| <i>1.</i><br><i>Regulation</i> | <i>2.</i><br><i>Description of information</i>  | <i>3.</i><br><i>Form number</i> | <i>4.</i><br><i>Approved document or format</i> | <i>5.</i><br><i>Electronic communications</i> |
|--------------------------------|---|---------------------------------|---|---|
| 184E(9)                        | Department's return for claimant who delivers form P45                                      | Forms PB8 and P45 Part 3        | yes   | yes   |
| 184(G)(1)                      | Department's return for claimant who does not deliver form P45                              | Form PB3                        | yes   | yes   |
| 184I(2)(b)                     | claimant's end of year certificate  | Form P60ESA                     | yes   | no  |
| 184J(2)                        | Department's end of year return   | Form P14U                       | yes   | yes   |
| 184L(1)                        | cessation of award of ESA   | Form P45ESA                     | yes   | yes   |
| 184Q(2)(b)                     | Department's notification of taxable ESA adjustment   | Form P180                       | yes   | no  |
| 184S(2)                        | Department's quarterly statement to HMRC of receipts and payments in respect of taxable ESA |                                 | yes   | no]   |

(5) If an employer delivers electronically the return required by regulation 73 (annual return of relevant payments liable to deduction of tax (Forms P35 and P14)), the statement and declaration and the certificate must, instead of being signed as required by regulation 73(8), be authenticated by or on behalf of the employer in such manner as may be approved by the Board of Inland Revenue.

[<sup>F12</sup>(6) For the purposes of this regulation "ESA" means employment and support allowance.]

#### Textual Amendments

**F10** Words in reg. 211 Table 10 inserted (6.4.2007) by [The Income Tax \(Pay as You Earn\) \(Amendment\) Regulations 2007 \(S.I. 2007/1077\)](#), regs. 1, **19**

**F11** Words in reg. 211(4) Table 10 inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **4(2)**

**F12** Reg. 211(6) inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **4(3)**



### Commencement Information

I23 Reg. 211 in force at 6.4.2004, see reg. 1

### Modifications for electronic version of Form P160

**212.**—(1) This regulation applies if instead of sending to the Inland Revenue the statement required by regulation 55(3)(a) (pensioner’s retirement statement: Form P160) a pension payer delivers the information it would contain to the Inland Revenue by an approved method of electronic communications (as permitted by regulation 211).

(2) For sub-paragraphs (a) to (m) of regulation 55(4) (information to be provided in retirement statement) substitute—

- “(a) the pension payer’s PAYE reference,
- (b) the pensioner’s name,
- (c) the date of retirement,
- (d) the date on which the pension started,
- (e) the pensioner’s code immediately before retirement and whether it was being used on the cumulative basis,
- (f) if the pensioner’s code immediately before retirement was used on the cumulative basis—
  - (i) the tax week or tax month in which the last relevant payment before retirement was made to the pensioner or, in a case falling within regulation 24, was treated as having been made,
  - (ii) the total payments to date at the date of retirement,
  - (iii) the total net tax deducted,
- (g) any number used to identify the pensioner,
- (h) the tax code in use for the pensioner, and whether it is being used on the cumulative basis,
- (i) the pensioner’s address, if known,
- (j) the pensioner’s sex,
- (k) the pensioner’s national insurance number, if known,
- (l) the pensioner’s date of birth, if known,
- (m) the amount of pension payable annually.”

### Commencement Information

I24 Reg. 212 in force at 6.4.2004, see reg. 1

### How information may be delivered by Inland Revenue

**213.**—(1) Table 11 applies to determine how the Inland Revenue may comply with requirements of the regulations listed in column 1.

(2) Instead of sending a document to the employer or (where relevant) the employer’s agent, the requirements of the regulation may be complied with by the Inland Revenue arranging for the information it would contain to be delivered to the employer or (where relevant) the employer’s agent by an approved method of electronic communications if so indicated in column 4.

(3) The relevant form number is listed in column 3.

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**Table 11**

Regulations which permit electronic delivery by Inland Revenue

| <i>1.<br/>Regulation</i> | <i>2<br/>Description of<br/>information</i>                    | <i>3.<br/>Form number</i> | <i>4.<br/>Electronic<br/>communications</i> |
|--------------------------|--|---------------------------|---|
| 8(2), 20(2)              | issue of code to employer or agent                             | Form P6 or P9             | yes   |
| 20(5), (6)               | notice to employer to amend codes                              | Form P7X or P9X           | yes   |
| 53(2)                    | notice to employer of payments and total net tax deducted      | Form P6                   | yes   |
| 61(2)                    | notice to pension payer of payments and total net tax deducted | Form P6                   | yes   |
| [ <sup>F13</sup> 199(1)  | e-payment notice   | MP(L)(Band 1)             | yes   |
| 206(1)                   | e-filing notice  | MP(L)(Band 1)             | yes]  |

(4) But the Inland Revenue may only deliver information by an approved method of electronic communications if the employer or employer's agent (as the case may be) has consented to delivery of information in that way, and the Inland Revenue have not been notified that the consent has been withdrawn.

(5) References in paragraphs (2) and (4) to an employer's agent are to a person acting on behalf of the employer.

**Textual Amendments**

**F13** Words in [reg. 213\(3\)](#) Table 11 added (6.4.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment No. 4\) Regulations 2007 \(S.I. 2007/2969\)](#), [regs. 1\(2\)](#), [23](#)

**Commencement Information**

**I25** [Reg. 213](#) in force at 6.4.2004, see [reg. 1](#)

**How information must be provided by employees**

**214.**—(1) An employee must comply with the requirements of the regulations listed in column 1 of Table 12 in a document or format provided or approved by the Board of Inland Revenue.

(2) Where appropriate, the relevant form number is listed in column 3 of the Table.

**Table 12**

Regulations which require employee to use approved document or format

| <i>1.<br/>Regulation</i>  | <i>2.<br/>Subject</i>  | <i>3.<br/>Form number</i> |
|---------------------------|--|---------------------------|
| 46(2)                     | Form P46 where employer does not receive Form P45 and code not known | Form P46                  |
| 145(1)                    | direct collection: return when relevant payments cease               | —                         |
| 146(1)                    | direct collection: end of year return                                | Form P14                  |
| 147(2)                    | direct collection: return of unpaid tax                              | —                         |
| 154(3)                    | claimant's certificate of full-time education                        | Form P187                 |
| [ <sup>F14</sup> 184G(3)] | claimant's certificate of full-time education                        | Form P187]                |

**Textual Amendments**

**F14** Words in [reg. 214\(2\)](#) Table 12 inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), [regs. 1, 5\(2\)](#)

**Commencement Information**

**I26** [Reg. 214](#) in force at 6.4.2004, see [reg. 1](#)

**Meaning of Form P45 and P46**

**215.** In these Regulations—

“Form P45” means the form provided or approved for use in accordance with regulations 36 (cessation of employment: Form P45), 38 (death of employee) or 39 (death of pensioner);

“Parts 2 and 3 of Form P45” means—

- the Parts 2 and 3 of the Form P45 provided to the employee or claimant (as the case may be) in accordance with regulation 36, <sup>F15</sup>...
- the Parts 2 and 3 of the Form P45 provided to the claimant in accordance with regulation 159 (cessation of award: Form P45U); [<sup>F16</sup>or]
- [<sup>F17</sup>the Parts 2 and 3 of the Form P45 provided to the claimant in accordance with regulation 184L (cessation of award: Form P45ESA);]

[<sup>F18</sup>“Form P45ESA” means the form required to be completed in accordance with regulation 184L;]

“Form P45U” means the form required to be completed in accordance with [<sup>F19</sup>regulation 159 or 184L];

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“Form P46” means the form provided or approved for use in accordance with regulations 46, 57 and 58 (Form P46 procedure for employees and pensioners).

#### Textual Amendments

- F15** Word in [reg. 215\(a\)](#) omitted (27.10.2008) by virtue of [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **6(2)(a)**
- F16** Word in [reg. 215\(b\)](#) inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **6(2)(b)**
- F17** [Reg. 215\(c\)](#) inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **6(2)(c)**
- F18** Words in [reg. 215](#) inserted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **6(3)**
- F19** Words in [reg. 215](#) substituted (27.10.2008) by [The Income Tax \(Pay As You Earn\) \(Amendment\) \(No.2\) Regulations 2008 \(S.I. 2008/2601\)](#), regs. 1, **6(4)**

#### Commencement Information

- I27** [Reg. 215](#) in force at 6.4.2004, see [reg. 1](#)

#### Service by post

**216.** Any notice or deductions working sheet which is authorised or required to be given, served or issued under these Regulations may be sent by post.

#### Commencement Information

- I28** [Reg. 216](#) in force at 6.4.2004, see [reg. 1](#)

**Status:**

Point in time view as at 01/04/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the The Income Tax (Pay As You Earn) Regulations 2003, PART 10 COMMUNICATIONS.