
STATUTORY INSTRUMENTS

2012 No. 821

**The Social Security (Contributions)
(Amendment No. 3) Regulations 2012**

PART 2

Real Time Information

CHAPTER 1

Amendments to the 2001 Regulations

Returns

11. After paragraph 21 of Schedule 4 (application of paragraphs 10, 12, 16, 17, 18, 19 and 20) insert—

“Real time returns of information about payments of general earnings

21A.—(1) On or before making any payment of general earnings to an employee a Real Time Information employer must deliver to HMRC the information specified in Schedule 4A (real time returns) in accordance with this paragraph unless the employer is not required to maintain a deductions working sheet for any employees.

(2) The information must be included in a return.

(3) Subject to paragraph (4), if payments of general earnings are made to more than one employee at the same time, the return under sub-paragraph (2) must include the information required by Schedule 4A in respect of each employee to whom a payment of general earnings is made at that time.

(4) If payments of general earnings are made to more than one employee at the same time but the employer operates more than one payroll, the employer must make a return in respect of each payroll.

(5) The return is to be made using an approved method of electronic communications and regulation 90N(2) (mandatory use of electronic communications) applies as if the return was a paragraph 22 return within the meaning given by regulation 90M (paragraph 22 return and specified payments).

(6) Section 98A of the Taxes Management Act 1970^{M1} (special penalties in case of certain returns) applies to returns within sub-paragraph (7).

(7) A return is within this sub-paragraph if it is one of the following—

(a) a return which relates to payments of general earnings made on the final normal pay day in the tax year 2012-13 for any of the employees in respect of whom information is included in the return; or

(b) a return which contains information about the final payment of general earnings made to any employee in the tax year 2012-13 where—

- (i) the payment is made after the employee's final normal pay day in the tax year, or
- (ii) the employee is paid at irregular intervals.

(8) Schedule 24 to the Finance Act 2007^{M2} (penalties for errors), as that Schedule applies to income tax returns, shall apply in relation to the requirement to make a return contained in sub-paragraph (2).

Modification of the requirements of paragraph 21A: notional payments

21B.—(1) This regulation applies if an employer makes a payment of general earnings to an employee which, for the purposes of tax, is a notional payment within the meaning given by section 710(2) of ITEPA 2003 (including a notional payment arising by virtue of a retrospective tax provision).

(2) If the employer is unable to comply with the requirement in paragraph 21A(1) to deliver the information required by that paragraph on or before making the payment, the employer must instead deliver the information as soon as reasonably practicable after the payment is made and in any event no later than—

- (a) the time at which the employer delivers the information required by regulation 67B of the PAYE Regulations^{M3} (real time returns of information about relevant payments) in respect of the payment;
- (b) the time at which the employer makes a deduction from earnings in respect of the payment in accordance with paragraph 7 (calculation of deduction); or
- (c) 14 days after the end of the tax month the payment is made in,

whichever is earliest.

Relationship between paragraph 21A and aggregation of earnings

21C.—(1) Where an employee's earnings are aggregated, a Real Time Information employer or, as the case may be, Real Time Information employers must make such arrangements as are necessary to ensure that the information specified in paragraph (2) in respect of all the aggregated earnings is included in the information given in respect of one of the employee's employments only.

(2) The information specified in this paragraph is the information specified in paragraphs 7 and 10(b) and (d) of Schedule 4A (real time returns).

Exceptions to paragraph 21A

21D.—(1) This paragraph applies to—

- (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);
- (c) a company, if all the directors and the company secretary fall within sub-paragraph (a);
- (d) a care and support employer.

(2) A Real Time Information employer to whom this paragraph applies may proceed in accordance with this paragraph instead of paragraph 21A.

(3) A Real Time Information employer must deliver to HMRC the information specified in Schedule 4A in respect of each employee to whom a payment of general earnings is made in a tax month unless the employer is not required to maintain a deductions working sheet for any employees and, for the purposes of this paragraph, references in Schedule 4A to a payment of

general earnings shall be read as if they were references to all the payments made to the employee in the tax month.

(4) The information must be included in a return in such a form as HMRC may approve or prescribe.

(5) The return required under sub-paragraph (4) must be delivered within 14 days after the end of the tax month the return relates to.

(6) If payments of general earnings have been made to more than one employee in the tax month, the return under sub-paragraph (4) must include the information required by Schedule 4A in respect of each employee to whom a payment of general earnings has been made.

(7) Section 98A of the Taxes Management Act 1970 applies to returns within sub-paragraph (8).

(8) A return is within this sub-paragraph if it is one of the following—

- (a) a return which contains information about the payment of general earnings made on the final normal pay day in the tax year 2012-13 for any of the employees in respect of whom information is included in the return; or
- (b) a return which contains information about the final payment of general earnings made to any employee in the tax year 2012-13 where—
 - (i) the payment is made after the employee's final normal pay day in the tax year, or
 - (ii) the employee is paid at irregular intervals.

(9) Schedule 24 to the Finance Act 2007, as that Schedule applies to income tax returns, shall apply in relation to the requirement to make a return contained in sub-paragraph (4).

(10) In sub-paragraph (1)(c), “company” means a body corporate or unincorporated association but does not include a partnership.

(11) In sub-paragraph (1)(d), “care and support employer” means an individual (“the employer”) who employs a person to provide domestic or personal services at or from the employer's home where—

- (a) the services are provided to the employer or a member of the employer's family;
- (b) the recipient of the services has a physical or mental disability, or is elderly or infirm; and
- (c) it is the employer who delivers the return (and not some other person on the employer's behalf).

Returns under paragraphs 21A and 21D: amendments

21E.—(1) This paragraph applies where an employer discovers an error in a return made under paragraph 21A (real time returns of information about payments of general earnings) or 21D (exceptions to paragraph 21A) and sub-paragraph (2), (3) or (4) applies.

(2) This sub-paragraph applies where the error relates to the information given in the return in respect of an employee under paragraphs 7, 10(b), 10(d), 13, 14, 15, 16 or 18 of Schedule 4A (real time returns).

(3) This sub-paragraph applies where the error was the omission of details of a payment of general earnings to an employee.

(4) This sub-paragraph applies where retrospective earnings increase the total amount of the general earnings paid to the employee for any tax year in which the employer was a Real Time Information employer.

(5) The employer must provide the correct information in the first return made after the discovery of the error under paragraph 21A or 21D for the tax year in question.

(6) But if the information given has not been corrected before 20th April following the end of the tax year in question, the employer must make a return under this sub-paragraph.

(7) A return under sub-paragraph (6)—

(a) must include the following—

- (i) the information specified in paragraphs 2 and 12 of Schedule 4A,
- (ii) the year to which the return relates,
- (iii) the value of the adjustment, if any, to the information given under each of the paragraphs of Schedule 4A referred to in sub-paragraph (2) in the final return under paragraph 21A or 21D containing information in respect of the employee in the tax year in question,
- (iv) if an adjustment is made to the information given under paragraph 7 or 10(b) or (d) of Schedule 4A, the information specified in paragraph 6 of that Schedule,
- (v) if an adjustment is made to the information given under paragraph 10(d) of Schedule 4A that decreases the amount reported under that paragraph, an indication of whether the employer has refunded the primary Class 1 contributions paid in error to the employee, and
- (vi) if an adjustment is made to the information given under paragraph 16 of Schedule 4A, the information specified in paragraph 17 of that Schedule if it has not already been provided;

(b) must be made as soon as reasonably practicable after the discovery of the error; and

(c) must be made using an approved method of electronic communications.

(8) In the application of sub-paragraphs (6) and (7) to cases within sub-paragraph (3), if no information was given in any returns under paragraph 21A or 21D in respect of the employee in the tax year, the value of any adjustments required must be calculated as if there was a final return containing information for the employee in the year and the figure requiring adjustment was zero.

(9) Sub-paragraph (7)(c) does not apply if the employer is one to whom paragraph 21D applies but in those circumstances the return must be in such a form as HMRC may approve or prescribe.

Additional information about payments

21F.—(1) A Real Time Information employer must inform HMRC of each of the amounts specified in Schedule 4B (additional information about payments) for each tax period unless sub-paragraph (4) or (5) applies.

(2) The information must be given in a return.

(3) The return must be delivered within 14 days after the end of the tax period.

(4) This sub-paragraph applies if—

(a) all of the amounts are zero; and

(b) the employer has not made a return under sub-paragraph (2) in the tax year.

(5) This paragraph applies if none of the amounts has changed in the tax period.

(6) If an employer makes an error in a return under this paragraph, the employer must provide the correct information in the first return made under sub-paragraph (2) after the discovery of the error.

(7) But if the information given has not been corrected before 20th April following the end of the year in question, the employer must provide the correct information for the year in question in a return under this sub-paragraph.

(8) A return under sub-paragraph (2) or (7)—

- (a) must state—
 - (i) the year to which the return relates,
 - (ii) the employer's HMRC office number,
 - (iii) the employer's PAYE reference, and
 - (iv) the employer's accounts office reference;
- (b) is to be made using an approved method of electronic communications.

(9) A return under sub-paragraph (2) may include the information required by paragraph 12 of Schedule 4A (real time returns) if it is the final return the employer expects to make under sub-paragraph (2) for the year, in which case it need not be notified in accordance with paragraph 12 of Schedule 4A.

(10) For the purposes of sub-paragraph (8)(b), regulation 90N(2) (mandatory use of electronic communications) applies as if the return was a paragraph 22 return within the meaning given by regulation 90M (paragraph 22 return and specified payments).

(11) The requirement to use an approved method of electronic communications does not apply if the employer is one to whom paragraph 21D (exceptions to paragraph 21A) applies but in those circumstances the return must be in such a form as HMRC may approve or prescribe.

(12) Schedule 24 to the Finance Act 2007 (penalties for errors), as that Schedule applies to income tax returns, shall apply in relation to the requirement to make a return contained in sub-paragraph (2) or (7).”

Marginal Citations

- M1** 1970 c.9. Section 98A was inserted by section 165(1) of the [Finance Act 1989 \(c.26\)](#). It was amended, so far as relevant, by paragraph 138 of Schedule 6 to ITEPA and paragraph 29(a) of Schedule 24 to the [Finance Act 2007 \(c.11\)](#).
- M2** 2007 c.11.
- M3** “The PAYE Regulations” is defined by regulation 1(2) of [S.I. 2001/1004](#) as meaning the [Income Tax \(Pay as You Earn\) Regulations 2003 \(S.I. 2003/2682\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Contributions) (Amendment No. 3) Regulations 2012, Section 11.