

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT No. 2)
REGULATIONS 2013

2013 No. 2300

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

2. Purpose of the instrument

2.1 These Regulations make amendments to the Income Tax (Pay As You Earn) Regulations (S.I. 2003/2682) (the 2003 Regulations), for a limited period of time, in relation to the operation of Real Time Information programme (RTI) by employers with no more than 49 employees.

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

None.

4. Legislative Context

4.1 The 2003 Regulations govern the operation of the Pay As You Earn (PAYE) system under which income tax is deducted at source from employees' pay. Certain other deductions are also made under the PAYE system.

4.2 Under the 2003 Regulations, RTI employers are required to report payments to employees and the deduction of tax to HMRC each time a payment is made. This is done using a return. Each return is required to contain certain information about the employee's pay and tax. These returns will also be used to report changes in employment.

4.3 These Regulations relax the requirement in the 2003 Regulations for employers to deliver a return to HMRC on or before making a relevant payment to an employee. An employer which, as at 6th October 2013, employs no more than 49 employees must deliver the return by the last day of the tax month in which the relevant payment is made. This relaxation to the on or before filing requirement applies for the period beginning on 6th October 2013 and ending on 5th April 2014.

4.4 The collection of National Insurance contributions (NICs) rely on the PAYE system. Amendments to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) are being made by HMRC at the

same time as these Regulations to reflect the introduction of this relaxation.

5. Territorial Extent and Application

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 HMRC started to pilot RTI from 6th April 2012 and the 2003 Regulations were amended with effect from that date to facilitate its introduction. Further amendments were introduced to reflect changes to employers' obligations under RTI from 6th April 2013 at which date the majority of employers were required to report payments on or before making them.

7.2 In March 2013, following representations by some smaller employers and their representatives, HMRC announced a relaxation, until 5th October 2013, of the requirement for employers with no more than 49 employees to send in their RTI returns on or before paying their employees.

7.3 Following representations that the filing requirements should not be altered part way through the tax year 2013-14 the 2003 Regulations are being amended to allow the relaxation to continue beyond 5th October 2013.

7.4 These Regulations will only apply in respect of relevant payments (as defined in the 2003 Regulations) made in the period 6th October 2013 to 5th April 2014. As from 6th April 2014 these employers will be required to file on or before the making of the payment to an employee.

- *Consolidation*

7.5 There are currently no plans to consolidate the instrument that is being amended.

8. Consultation outcome

8.1 Following the announcement in March 2013 of the temporary relaxation to the on or before filing requirement HMRC has been discussing the implications of that requirement with employers and

their representatives. This amendment has been drafted as a consequence of those discussions. HMRC recognises that the affected employers have concerns and will continue to consult on this matter before making an announcement about what will happen as from 6th April 2014.

9. Guidance

- 9.1 Extensive guidance has been published on HMRC's website for employers using RTI and this will be updated to reflect these changes.

10. Impact

- 10.1 All employers including charities or voluntary bodies will be required to use RTI.
- 10.2 The impact of RTI on the public sector is the same as for any other employer.
- 10.3 A Tax Information and Impact Note was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (SI 2012. No 822). This was updated as a result of changes to the impacts as a result of the year long RTI pilot and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>
It remains an accurate summary of the impacts that apply to this instrument.

11 Regulating small business

- 11.1 The legislation applies to small business.
- 11.2 RTI aims to reduce administrative burdens for all employers, including small employers and this amendment is intended to help achieve that aim.

12 Monitoring & review

- 12.1 RTI has been piloted from April 2012 and HMRC will continue to monitor the operation of RTI, in particular the interaction with Universal Credit and consider further amendments as necessary.

13 Contact

The following can answer any queries regarding the instrument:
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