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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the principal Regulations”) which make provision for the assessment, charge, collection and recovery of income tax in respect of all pay as you earn (“PAYE”) income. These Regulations also amend the Income Tax (Construction Industry Scheme) Regulations 2005 (S.I. 2005/2045) (“the CIS Regulations”) which make provision in relation to the construction industry scheme established by Chapter 3 of Part 3 of the Finance Act 2004 (c. 12).

Part 1 of these Regulations amends the principal Regulations.

Regulation 1 provides for citation, commencement and effect.

Regulation 3 makes a consequential amendment to the definition of “deductions working sheet” following the substitution of regulation 142 of the principal Regulations by regulation 11 of these Regulations.

Regulation 4 amends regulation 67B of the principal Regulations which requires a Real Time Information employer to provide the information specified in Schedule A1 to those Regulations on or before making a relevant payment to an employee. Regulation 4 substitutes regulation 67B(1A) and (1B) and inserts new paragraphs (1C) and (1D). These new paragraphs alter the filing requirement for one or both of the tax years 2014-15 and 2015-16 for employers who are existing employers at 5th April 2014 and who employ no more than 9 employees. For one or both of those tax years providing that the relevant conditions are met, these employers can deliver one return, on or before the last relevant payment is made in the tax month, in respect of all the relevant payments in that month. Condition A (paragraph (1B)) is that at 5 April 2014 the employer must have an employer’s PAYE reference (a reference issued by HMRC to identify each PAYE Scheme). Condition B (paragraph (1C)) and Condition C (paragraph (1D)) are that at 6 April 2014 and 6 April 2015 the employer employs no more than 9 employees.

Regulation 5 makes two amendments to regulation 67D of the principal Regulations, which regulation allows certain employers (“paper filer employers”) to file on paper rather than using an approved method of electronic communications. Regulation 4(a) and (b) clarifies that where a paper filer employer decides to file returns electronically, that employer will also be required to make the returns on or before making a relevant payment. Regulation 4(c) amends regulation 67D so that paper filer employers are required to submit information within 14 days of the end of a tax quarter.

Regulation 6 makes minor amendments to regulation 67E of the principal Regulations to clarify the circumstances in which the regulation applies.

Regulation 7 inserts new regulation 69A which makes provision for a tolerance of £100 between the total of all the amounts that the employer is due to pay to Her Majesty’s Revenue and Customs (“HMRC”) for a tax period and the amount paid over for that period. As a consequence if the difference between the sum due to HMRC and the sum paid over is no more than £100 the employer will not be liable to a late payment penalty under paragraph 6 of Schedule 55 to the Finance Act 2009 (c. 10).

Regulations 8 and 9 amend regulation 72E and regulation 72F of the principal Regulations which allow HMRC to direct that an employer is not liable to pay an amount of tax when regulation 72F applies. That regulation requires that a direction must be made by notice to the employer and the employee.

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Regulation 8 amends regulation 72E so that regulation 72F applies where it is likely that an amount of tax has been self-assessed on a relevant payment.

Regulation 9 amends regulation 72F so that a direction made by notice to the employer and the employee must state either the amount of tax that has been self-assessed on the relevant payment or the employment in respect of which the relevant payment was received and tax was self-assessed.

Regulations 10 to 17 of these Regulations amend Chapter 4 of Part 7 of the principal Regulations which make provision for cases where it is not practicable for the employer to deduct tax by reference to the tax tables, for instance where the employer has no presence in the United Kingdom.

Regulation 10 provides that in such cases the employee will be required to operate Pay As You Earn upon the relevant payments received from the employer (“the direct collection procedure”) unless HMRC makes special arrangements. The employee may object to operating the direct collection procedure, in which case the relevant payments will be reportable under Self Assessment.

Regulation 11 provides that an employee who is within the direct collection procedure must proceed as though that employee were the employer for the purposes of regulation 67B, or regulation 67D where a direction is made. The employee has 30 days from receipt of written notification from HMRC that the direct collection procedure applies. Where the employee so objects, the relevant payments will be reportable under Self Assessment.

Regulations 12 to 16 make consequential amendments to regulations 143 to 146 of the principal Regulations, including the repeal of regulation 146 (from April 2015) which requires a direct collection employee to file an end of year return. Such returns will no longer be required as the information will be provided each time a payment is received by the employee.

Regulation 17 makes provision for the £100 tolerance to apply to direct collection employees.

Regulation 18 makes a consequential amendment to regulation 206 of the principal Regulations to remove paper filer employers from the requirement to file by an approved method of electronic communications.

Regulation 19 makes a consequential amendment to regulation 207 of the principal Regulations to require employees within Chapter 4 of Part 7 of those Regulations to file using an approved method of electronic communications.

Regulation 20 amends paragraph 21(b) of Schedule A1 to the principal Regulations, to increase the number of bands to be used by employers in reporting the hours worked by their employees.

Part 2 of these Regulations amends the CIS Regulations. Regulation 21 inserts new regulation 7A into the CIS Regulations. New regulation 7A makes provision for the £100 tolerance between the amount that a contractor is liable to pay to HMRC and the amount that is paid for the tax period. As a consequence of this regulation, if the difference between the two sums is no more than £100 the contractor will not be liable to a late payment penalty under paragraph 6 of Schedule 56 to the Finance Act 2009.

A Tax Information and Impact Note covering Part 1 of this instrument (with the exception of regulations 7 and 17) was published on 15th March 2012 alongside the [Income Tax \(Pay As You Earn\) \(Amendment\) Regulations 2012 \(S. I. 2012/822\)](#). 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 Part 1 of this instrument.

A Tax Information and Impact Note covering regulations 7 and 17 and Part 2 of this instrument was published on 20 March 2013 alongside the Budget documentation 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 regulations 7 and 17 and Part 2 of this instrument.

A Tax Information and Impact Note covering regulations 8 and 9 of this instrument was published on 24th February 2014 alongside a draft of those regulations and is available on the HMRC website

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at [http://www.hmrc.gov.uk/the\\_library/tiins.htm](http://www.hmrc.gov.uk/the_library/tiins.htm). It remains an accurate summary of the impacts that apply to regulations 8 and 9 of this instrument.