
STATUTORY INSTRUMENTS

2020 No. 1220

**The Social Security Contributions (Intermediaries)
(Miscellaneous Amendments) Regulations 2020**

Amendment of the Social Security Contributions (Intermediaries) Regulations 2000 and the Social Security Contributions (Intermediaries) (Northern Ireland) Regulations 2000

2.—(1) The Intermediaries Regulations and the Northern Ireland Regulations are amended as follows.

(2) For the heading “Part 1: Intermediaries – General Provisions” substitute “Part 1: Intermediaries – general provisions and workers’ services provided to small clients”.

(3) In regulation 3A(1)—

(a) after sub-paragraph (a) insert—

“(aa) a body specified in section 23(3) of the Freedom of Information Act 2000(1),”

(b) omit the “or” at the end of sub-paragraph (e), and

(c) after sub-paragraph (f) insert—

“, or

(g) a company connected with any person mentioned in sub-paragraphs (a) to (f).”

(4) After regulation 5 insert—

“When a client qualifies as small and has a UK connection for a tax year

5A.—(1) For the purposes of this Part a person qualifies as small for a tax year if the person qualifies as small for that tax year under sections 60A to 60G of ITEPA 2003(2).

(2) For the purposes of this Part a person has a UK connection for a tax year if the person fulfils the conditions as to residence and presence for liability to pay secondary Class 1 contributions prescribed under section 1(6)(a) of the Contributions and Benefits Act.

Duty on client to state whether it qualifies as small for a tax year

5B.—(1) This regulation applies if, in the case of an engagement that meets conditions (a) to (b) in regulation 6(1), the client receives from the client’s agent or the worker a request to state whether in the client’s opinion the client qualifies as small for a tax year specified in the request.

(2) The client must provide to the person who made the request a statement as to whether in the client’s opinion the client qualifies as small for the tax year specified in the request.

(1) [2000 c. 36](#); section 23(3) was amended by paragraph 159 of Schedule 4 to the Serious Organised Crime and Police Act [2005 \(c. 15\)](#), paragraph 102 of Schedule 8 to the Crime and Courts Act [2013 \(c. 22\)](#) and paragraph 5(2) of Schedule 2 to the Justice and Security Act [2013 \(c. 18\)](#).

(2) “ITEPA 2003” is defined in section 122(1) of the Contributions and Benefits Act as the Income Tax (Earnings and Pensions) Act 2003. Sections 60A to 60G were inserted by Schedule 1 to the Finance Act [2020 \(c. 14\)](#) with effect for the tax year 2021-22 and subsequent tax years.

- (3) If the client fails to provide the statement by the time mentioned in paragraph (4) the duty to do so is enforceable by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988(3).
- (4) The time is whichever is the later of—
- (a) the end of the period of 45 days beginning with the date the client receives the request, and
 - (b) the beginning of the period of 45 days ending with the start of the tax year specified in the request.
- (5) In this regulation “the client’s agent” means a person with whom the client entered into a contract as part of the arrangements mentioned in sub-paragraph (b) of regulation 6(1).”
- (5) In regulation 6—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (a) after “(“the client”)” insert “who is not a public authority”,
 - (ii) omit sub-paragraph (aa), and
 - (iii) before sub-paragraph (b) insert—

“(ab) the client either qualifies as small for a tax year or does not have a UK connection for a tax year,”
 - (b) after paragraph (2A) insert—

“(2B) The condition in paragraph (1)(ab) is to be ignored if—

 - (a) the client concerned is an individual, and
 - (b) the services concerned are performed otherwise than for the purposes of the client’s business.

(2C) For the purposes of paragraph (1)(ab) the client is to be treated as not qualifying as small for the tax year concerned if the client is treated as medium or large for that tax year by reason of regulation 20A(3)(a).”, and
 - (c) in paragraph (3) for “Where these Regulations apply” substitute “Where this Part applies”.
- (6) In regulation 9(2) for “applies” substitute “apply”.
- (7) In regulation 12—
- (a) for the heading substitute “Application of the Social Security (Categorisation of Earners) Regulations 1978 and the Social Security Contributions (Managed Services Companies) Regulations 2007”,
 - (b) the existing paragraph becomes paragraph (1), and
 - (c) after paragraph (1) (as renumbered) insert—

“(2) This Part does not apply to services provided by a managed service company (within the meaning of the Social Security Contributions (Managed Service Companies) Regulations 2007).”.
- (8) After regulation 12—
- (a) for the heading “Part 2: Intermediaries – worker’s services provided to public authorities”, substitute “Part 2: Intermediaries – workers’ services provided to public authorities or medium or large clients”, and
 - (b) then insert—

“When a client qualifies as medium or large and has a UK connection for a tax year

12A.—(1) For the purposes of this Part a person qualifies as medium or large for a tax year if the person does not qualify as small for the tax year for the purposes of Part 1 of these Regulations.

(2) For the purposes of this Part a person has a UK connection for a tax year if the person fulfils the conditions as to residence and presence for liability to pay secondary Class 1 contributions prescribed under section 1(6)(a) of the Contributions and Benefits Act.”.

(9) In regulation 13—

(a) in paragraph (1)—

(i) omit sub-paragraph (b),

(ii) omit the “and” at the end of sub-paragraph (c), and

(iii) after sub-paragraph (c) insert—

“(ca) the client—

(i) is a public authority, or

(ii) is a person who qualifies as medium or large and has a UK connection for one or more tax years during which the arrangements mentioned in sub-paragraph (c) have effect, and”,
and

(b) after paragraph (1) insert—

“(1A) But regulations 14 to 18 do not apply if—

(a) the client is an individual, and

(b) the services are provided otherwise than for the purposes of the client’s trade or business.”.

(10) In regulation 14—

(a) in paragraph (3)—

(i) after “paragraphs (5) to (7)” insert “and (8A)”, and

(ii) after “regulations 20” insert “, 20A”,

(b) for paragraph (5) substitute—

“(5) Unless and until the client gives a status determination statement to the worker in accordance with regulation 14A, paragraphs (3) and (4) have effect as if for any reference to the fee-payer there were substituted a reference to the client; but this is subject to regulation 22.

(5A) Paragraphs (6) and (7) apply, subject to regulations 20, 20A and 22, if—

(a) the client has given a status determination statement to the worker,

(b) the client is not the fee-payer, and

(c) the fee-payer is not a qualifying person.”.

(c) in paragraph (8) before sub-paragraph (a) insert—

“(za) has been given by the person immediately above them in the chain the status determination statement given by the client to the worker”, and

(d) after paragraph (8) insert—

“(8A) If the client is not a public authority, a person is to be treated by paragraph (3) as making a payment of deemed direct earnings to the worker only if the chain payment made by the person is made in a tax year for which the client qualifies as medium or large and has a UK connection.”.

(11) After regulation 14 insert—

“Meaning of status determination statement

14A.—(1) For the purposes of regulation 14 “status determination statement” means a statement by the client that—

- (a) states that the client has concluded that the condition in regulation 13(1)(d) is met in the case of the engagement and explains the reasons for that conclusion, or
- (b) states (albeit incorrectly) that the client has concluded that the condition in regulation 13(1)(d) is not met in the case of the engagement and explains the reasons for that conclusion.

(2) But a statement is not a status determination statement if the client fails to take reasonable care in coming to the conclusion mentioned in it.”.

(12) In regulation 15(1) for sub-paragraph (b) substitute—

“(b) it is the case that—

- (i) the worker has a material interest in the intermediary,
- (ii) the worker has received a chain payment from the intermediary, or
- (iii) the worker has rights which entitle, or which in any circumstances would entitle, the worker to receive a chain payment from the intermediary.”.

(13) In regulation 16, omit paragraph (3).

(14) For regulation 20 substitute—

“Client-led status disagreement process

20.—(1) This regulation applies if, before the final chain payment is made in the case of an engagement to which this Part applies, the worker or the deemed employer makes representations to the client that the conclusion contained in a status determination statement is incorrect.

(2) The client must either—

- (a) give a statement to the worker or (as the case may be) the deemed employer that—
 - (i) states that the client has considered the representations and has decided that the conclusion contained in the status determination statement is correct, and
 - (ii) states the reasons for that decision, or
- (b) give a new status determination statement to the worker and the deemed employer that—
 - (i) contains a different conclusion from the conclusion contained in the previous status determination,
 - (ii) states the date from which the client considers that the conclusion contained in the new status determination statement became correct, and
 - (iii) states that the previous status determination statement is withdrawn.

(3) If the client fails to comply with the duty in paragraph (2) before the end of the period of 45 days beginning with the date the client receives the representations, regulation 14(3) and (4)

has effect from the end of that period until the duty is complied with as if for any reference to the fee-payer there were substituted a reference to the client; but this is subject to regulation 22.

(4) A new status determination statement given to the deemed employer under paragraph (2) (b) is to be treated for the purposes of regulation 14(8)(za) as having been given to the deemed employer by the person immediately above the deemed employer in the chain.

(5) In this regulation—

“the deemed employer” means the person who, assuming one of conditions A to C in regulation 14 were met, would be treated as making a payment of deemed direct earnings to the worker under regulation 14(3) on the making of a chain payment;

“status determination statement” has the meaning given by regulation 14A.

Duty for client to withdraw status determination statement if it ceases to be medium or large

20A.—(1) This regulation applies if in the case of an engagement to which this Part applies—

- (a) the client is not a public authority,
- (b) the client gives a status determination statement to the worker, the client’s agent or both, and
- (c) the client does not (but for this regulation) qualify as medium or large for a tax year beginning after the status determination statement is given.

(2) Before the beginning of the tax year the client must give a statement to the relevant person, or (as the case may be) to both of the relevant persons, stating—

- (a) that the client does not qualify as medium or large for the tax year, and
- (b) that the status determination statement is withdrawn with effect from the beginning of the tax year.

(3) If the client fails to comply with that duty the following rules apply in relation to the engagement for the tax year—

- (a) the client is to be treated as medium or large for the tax year, and
- (b) regulation 14(3) and (4) has effect as if for any reference to the fee-payer there were substituted a reference to the client.

(4) For the purposes of paragraph (2)—

- (a) the worker is a relevant person if the status determination statement was given to the worker, and
- (b) the deemed employer is a relevant person if the status determination statement was given to the client’s agent.

(5) In this regulation—

“client’s agent” means a person with whom the client entered into a contract as part of the arrangements mentioned in regulation 13(1)(c);

“the deemed employer” means the person who, assuming one of conditions A to C in regulation 14 were met, would be treated as making a payment of deemed direct earnings to the worker under regulation 14(3) on the making of a chain payment;

“status determination statement” has the meaning given by regulation 14A.”.

(15) In regulation 23(1)—

- (a) in sub-paragraph (b) for “a public authority” substitute “another person (“the client”)”, and

(b) in sub-paragraph (d) for “that public authority” substitute “the client”.