

EXPLANATORY MEMORANDUM TO

THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT) REGULATIONS 2021

2021 No. 218

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 Pay As You Earn (PAYE) is the system used to collect income tax, National Insurance contributions (NICs) and other deductions from employees and pension recipients. Employers and pension providers must normally operate PAYE as part of their payroll and report information to HMRC under the PAYE Real Time Information (RTI) system.
- 2.2 HMRC is simplifying the way employers and pension providers are required to report amendments to their PAYE RTI returns for tax years prior to the current tax year. This instrument amends the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) ("the PAYE Regulations") to reflect these new reporting requirements. The changes in this instrument will come into force on 6 April 2021.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instrument

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The PAYE Regulations govern the operation of the PAYE system under which income tax is deducted at source from payments made to employees and pensioners.

- 6.2 Where an employer or pension provider needs to amend an inaccuracy in their PAYE RTI returns, they should do so as soon as they discover the inaccuracy. Where the inaccuracy is identified during the tax year it relates to, employers and pension providers are required to report the amended data in their next PAYE RTI return. However, if the inaccuracy is not identified within 14 days after the end of the relevant tax year, HMRC requires the employer or pension provider to amend their PAYE RTI data by reporting the difference between the original figures for salary paid and tax deducted reported and the correct amounts.
- 6.3 These Regulations amend the PAYE Regulations in relation to the information an employer or pension provider must include when they correct an inaccuracy which occurred in an earlier tax year. If the inaccuracy relates to the 2020-21 tax year or a later tax year, employers and pension providers will no longer be required to report the difference between the correct and incorrect figures and must instead report the correct amounts.
- 6.4 These Regulations also provide that if an employer or pension provider amends an inaccuracy relating to the 2017-18 tax year or an earlier tax year after the end of the relevant tax year, they must still report the difference between the correct and incorrect figures. For the 2018-19 and 2019-20 tax years, employers can choose to report either the difference or just the corrected amounts.
- 6.5 These Regulations also make a consequential change to ensure employers reporting under the new requirements are required to meet any shortfall of tax paid as a result of the original inaccuracy.
- 6.6 The Social Security (Contributions)(Amendment) Regulations 2021 (S.I. 2021/219) make similar changes to the way employers or pension providers must amend any inaccuracies to the NICs data provided on their PAYE RTI returns for earlier tax years.

7. Policy background

What is being done and why?

- 7.1 Employers and pension providers may need to amend their returns for several reasons. These can range from simple payroll errors and omissions where the reported payroll information may not balance with the PAYE and NICs payments, to updated information coming to light sometime after the original submission was sent. HMRC are simplifying the way employers and pension providers are required to make amendments to their PAYE RTI returns for earlier years when reporting amendments relating to the 2018-19 tax year and any subsequent tax years.
- 7.2 At present employers and pension providers report the difference between what they have originally reported and what the correct amounts should have been. This process can be onerous for employers and pension providers who often find difficulty in locating the inaccuracies and understanding how they should be reported. This leads to significant contact with HMRC and creates delays in making the required amendments.
- 7.3 This legislation will enable employers and pension providers who need to correct inaccuracies more than 14 days after the end of the relevant tax year, to simply report the corrected end of year payroll information rather than the difference between what they have originally reported and what the correct amounts should have been. The

change is being made as a result of significant external representations from employers, payroll agents, employer representative bodies and software developers and addresses a key recommendation in the [RTI Programme Post Implementation Review Report](#).

- 7.4 Since 20 April 2019, HMRC has piloted the new reporting process. Feedback to the pilot has been positive, with external stakeholders telling HMRC the new process removes much of the complexity, making it easier to ensure correct returns.
- 7.5 For the 2018-19 and 2019-20 tax years covered by the pilot, employers and pension providers can correct inaccuracies to their PAYE RTI data by reporting either the difference or the corrected amounts. From 20 April 2021 for the 2020-21 tax year onwards, corrections to inaccuracies must be made using the new simplified process by reporting the correct amounts.
- 7.6 This greater simplicity will help reduce the costs and administrative burdens associated with the existing process. The change is expected to have a significant positive impact on an estimated 250,000 employers and pension providers who are likely to make amendments to their PAYE RTI returns after the end of the tax year. It will provide a simplified customer journey, making reporting simpler and reducing the risk of error and rework. The changes are intended to bring administrative benefits to business as well as reducing the resource costs HMRC need to support the existing process.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

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

10. Consultation outcome

- 10.1 No consultation was carried out on this instrument because it introduces a minor reporting change.

11. Guidance

- 11.1 Guidance for employers reporting PAYE using RTI has been published on the GOV.UK website at: www.gov.uk/payroll-errors/correcting-your-fps-or-eps and will be updated to reflect the reporting requirements in April 2021.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to update HMRC's free payroll software 'Basic PAYE Tools' to enable all affected businesses to report any corrections to inaccuracies using the new simplified process.
- 13.3 The basis for the final decision on what action to take to assist small businesses, is to minimise the administrative burdens on employers and pension providers by simplifying the reporting requirements for making amendments to PAYE RTI returns after the end of the tax year.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is to consider the effectiveness of the new reporting requirements. This will be done through continued communication with employers, pension providers and external stakeholder groups through established communication and consultation channels.
- 14.2 The regulation does not include a statutory review clause because in accordance with section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015, it is made in relation to the imposition of a tax, duty, levy or other charge.

15. Contact

- 15.1 Craig Maffey at HMRC Telephone: 03000 517956 or email: craig.r.maffey@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Helen Page, Deputy Director for Tax Administration Policy and Strategy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.