

**EXPLANATORY MEMORANDUM TO**  
**THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT)**  
**REGULATIONS 2022**

**2022 No. 1243**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by His Majesty’s Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument specifies the information an employee must provide to HMRC to evidence their entitlement to tax relief in relation to certain allowable expenses.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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 Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the PAYE Regulations”) govern the operation of the Pay As You Earn (PAYE) system under which income tax is deducted at source from payments made to employees and pensioners.
- 6.2 Entitlement to deductions from taxable earnings is granted by section 327 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). Deductions for employee’s expenses are allowable under Chapter 2 and Chapter 4 of Part 5 of ITEPA. Employees are entitled to notify HMRC of deductions in calculating their net taxable income when they spend their own money on allowable employment expenses in relation to a tax year.
- 6.3 Regulation 65A of the PAYE Regulations came into force on 6 May 2022 and provided for the Commissioners for HMRC to make a direction stipulating the form and manner in which information about an employee’s deductible expenses should be provided to HMRC.

- 6.4 Regulation 65A also contains a description of the information required to notify HMRC of an employee's deductible expenses.
- 6.5 This instrument amends that description, setting out the detail of what is required, including items of information such as the employer's PAYE reference. The instrument also brings fixed allowance expenses under Chapter 4 of Part 5 of ITEPA within the scope of regulation 65A.

## **7. Policy background**

### *What is being done and why?*

- 7.1 HMRC require all employees (and repayment agents who notify HMRC on an employee's behalf) to include the information necessary to identify the correct employee, employer and nature and amount of deductible expenses. This instrument will amend Regulation 65A(4) so that it specifies the requirement for the employer's PAYE reference and other information fields (i.e. name, address, date of birth and national insurance number of the employee). This is to clearly specify what information is required by HMRC to process a claim. Claims without the required information will be rejected.
- 7.2 The relevance of the employer's PAYE reference is that, to allow any expenses, HMRC needs to make sure the employment exists by validating the employer reference that is provided against the information on HMRC's system. The inclusion of the employer's PAYE reference will negate the need for clerical intervention to manually process these notifications. Information identifying the employee enables matching against HMRC's records, providing further security and preventing fraudulent claims. The change should allow for greater efficiency in processing claims through automation.

## **8. European Union Withdrawal and Future Relationship**

- 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 minor changes to streamline existing processes.

## **11. Guidance**

- 11.1 Guidance on claiming income tax relief for employment expenses is available on the GOV.UK website at [www.gov.uk/guidance/claim-income-tax-relief-for-your-employment-expenses-p87](http://www.gov.uk/guidance/claim-income-tax-relief-for-your-employment-expenses-p87). This will be updated to reflect the changes in December 2022.

## **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 No specific action is proposed to minimise regulatory burdens on small business.

13.3 The basis for the final decision on what action to take to assist small businesses is to give advance notice to businesses of what information is required when notifying HMRC of deductible expenses on behalf of individuals. HMRC is not adding any additional information fields to the form of notification beyond what is already requested but confirming which of these fields must be completed. For this reason, no further mitigating action is required.

### **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is to consider the continuing processing performance and effectiveness of the information provided in relation to employee expenses. This will be done through stakeholder engagement groups and regular communication with repayment agents by HMRC's agent relationship managers.

14.2 As this instrument is not made by a Minister of the Crown, no review clause is required.

### **15. Contact**

15.1 Yousuf Akubat at HMRC Telephone: 03000 541 130 or email: [yousuf.akubat@hmrc.gov.uk](mailto:yousuf.akubat@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Lucy Morgan, Deputy Director for Tax Administration Policy and Strategy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.