
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) (“the PAYE Regulations”)—

- to make provision for payment, collection and recovery of apprenticeship levy;
- to make consequential amendments to the PAYE Regulations arising from sections 13 and 14 of the Scotland Act 2016 (c. 11); and
- to make consequential amendments to the PAYE Regulations arising from section 167 of the Finance Act 2016 (c. 24).

Regulation 2(2) makes amendments to the PAYE Regulations as a consequence of amendments, made by section 13 of the Scotland Act 2016, to the power of the Scottish Parliament to set rates of income tax for Scottish taxpayers under section 80C of the Scotland Act 1998 (c. 46). Section 80C of the Scotland Act 1998 now provides that the Scottish Parliament may by a Scottish rate resolution set the Scottish basic rate, and any other rates, for the purposes of section 11A of the Income Tax Act 2007 (c. 3) (which provides for the non-savings income of Scottish taxpayers to be charged at those rates). The first tax year for which these powers can be exercised is 2017/18.

Regulation 2(2) also amends the definition of “combined amount” in regulation 2(2) of the PAYE Regulations so as to make that definition apply to the apprenticeship levy. The effect of the amendment is that HMRC can pursue a single amount from an employer rather than having to separate out apprenticeship levy from other sums due.

Regulation 2(3) makes a consequential amendment to regulation 7 of the PAYE Regulations following the amendments to the Income Tax Act 2007 (c. 3) made by section 14 of the Scotland Act 2016.

Regulation 2(4) to (12) amends regulations 97A to 97E, 97G to 97H and 97L of the PAYE Regulations which relates to the recovery of debts from managed service companies so as to enable these provisions to apply to apprenticeship levy debt in the same way as they apply to PAYE debt.

Regulation 3 inserts new regulations 147B to 147N into the PAYE Regulations. In particular:-

- new regulation 147B defines “monthly pay bill” for the purposes of calculation of the apprenticeship levy;
- new regulation 147C makes provision for the due date for payment of the apprenticeship levy;
- new regulation 147D places a requirement on employers to notify HMRC of the apprenticeship levy which is to be paid and makes provision for the information which the return to HMRC should include;
- new regulation 147E makes provision for the calculation of the monthly levy allowance which is to be used by the employer in calculating the monthly apprenticeship levy due to be paid;
- new regulation 147F enables the employer to elect to apportion their annual entitlement to the levy allowance between more than one PAYE reference;
- new regulation 147G enables members of a company unit or charities unit to elect to apportion their annual entitlement to the levy allowance between more than one PAYE reference held by that company or charity;
- new regulation 147H makes provision for the calculation of the apprenticeship levy due for the first month in the tax year;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- new regulation 147I makes provision for the calculation of the apprenticeship levy due for subsequent months in the tax year;
- new regulation 147J makes provision for recovery of overpaid levy by the employer;
- new regulation 147K makes provision for the liability to pay and duty to make a return of apprenticeship levy by continental shelf workers certificate holders;
- new regulation 147L makes provision for the assessment of unpaid apprenticeship levy by HMRC which is due under new regulations 147E, 147H and 147I;
- new regulation 147M makes provision for the recovery of apprenticeship levy in circumstances where the levy has been repaid to a person which ought not to have been repaid;
- new regulation 147N makes provision for the retention by the employer of apprenticeship levy records.

Regulation 4 amends regulation 150 of the PAYE Regulations to include section 59BA of the Taxes Management Act 1970 (c. 9).

Regulation 5 amends the list in regulation 184B(1) to include s59BA of the Taxes Management Act 1970 in the entry relating to regulation 185.

Regulation 6(d) amends regulation 185(1) of the PAYE Regulations to extend the regulation's application to section 59BA of Taxes Management Act 1970.

Regulation 6(e) amends regulation 185(6) of the PAYE Regulations to extend the definition of "relevant tax year" to include a year for which a simple assessment has been made.

Regulation 6(f) amends regulation 185(6) of the PAYE Regulations to extend the definitions of "tax payer" to include a person subject to a simple assessment.

An Impact Assessment covering regulations 2(2)(a), (b) and (d) and 2(3) was published on 28th May 2015 alongside the draft clauses and explanatory notes for the Scotland Bill and is available on the website at <http://www.parliament.uk/documents/impact-assessments/IA15-004.pdf>. It remains an accurate summary of the impacts that apply to this instrument.

A **Tax Information and Impact Note** covering the changes made by regulations 2(2)(c), 2(4) to (12) and 3 was published alongside draft apprenticeship levy Finance Bill 2016 Clauses and Explanatory Notes on 4th February 2016 on GOV.UK.

An Impact Assessment covering regulations 4 to 6 was published on 9th December 2015 and is available on the website <https://www.gov.uk/government/publications/income-tax-simple-assessment> alongside the draft clauses and explanatory notes for the Finance Act 2016 and is available on the website <https://www.gov.uk/government/publications/finance-bill-2016-legislation-and-explanatory-notes>. It remains an accurate summary of the impacts that apply to this instrument.