

# FINANCE ACT 2012

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 225: Paye Regulations: Information*

#### Summary

1. **Section 225** provides HM Revenue & Customs (HMRC) with additional powers to require by regulations that certain persons who make payments that are subject to the Pay As You Earn system (PAYE) by electronic means must insert a cross-reference into the information provided to HMRC about that payment and the instruction to the payment service provider to make the payment. The regulations and directions which HMRC intends to make under them will detail who, and which payment services, are affected.

#### Details of the Section

2. Subsection (1) provides for the amendment of section 684 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). Section 684 requires the Commissioners for HMRC (the Commissioners) to make regulations governing the operation of PAYE (PAYE Regulations). Section 684(2) of ITEPA contains a list of items which may be included in the regulations.
3. Subsection (2)(a) inserts into section 684(2) a new item 4ZA. This allows for PAYE Regulations to authorise or require anyone who provides a payment service to supply information to HMRC about payments of PAYE income made by means of that payment service. PAYE Regulations may also include provision authorising or requiring the provision of information about the payment service provided with respect to particular payments. The Commissioners are provided with a power to specify, by means of directions, circumstances in which the above obligations do not apply.
4. New item 4ZA also allows PAYE Regulations to provide that where anyone provides information to HMRC in accordance with one of the above authorisations the supply of that information will not be treated as breaching any obligation of confidence.
5. Subsection (2)(b) inserts new item 8A into the list in section 684(2). It allows PAYE Regulations to require compliance with any directions the Commissioners may give about the form and manner in which information must be provided under the Regulations. It also allows PAYE Regulations to require compliance with directions specifying the information that a person who makes a payment of PAYE income must provide to HMRC about the method by which the payment is made.
6. New subsection (3C) provides that directions made under new items 4ZA and 8A in section 684(2) may make different provision for different cases.
7. Subsection (4) inserts new subsections (4ZA), (4ZB) and (4ZC) after section 684(4).
8. New subsection (4ZA) confirms that new item 8A in subsection (2) of that section, which allows PAYE Regulations to require compliance with certain directions, does

*These notes refer to the Finance Act 2012 (c.14)  
which received Royal Assent on 17 July 2012*

not prejudice the power of the Commissioners under section 684 to make provision in PAYE Regulations dealing with the same subject matter as the directions.

9. New subsection (4ZB) provides that PAYE Regulations may provide for information required under the Regulations to be provided to persons who provide payment services covered by regulations made under new item 4ZA in section 684(2). Item 4ZA provides that PAYE Regulations may require the provider of that service to ensure that means are put in place to allow this to happen, including by directions under new item 8A in section 684(2), and prohibiting the service provider from disclosing that information other than to HMRC.
10. New subsection (4ZC) sets out the meaning of “PAYE information regulations” for the purposes of new subsection (4ZB).

### **Background Note**

11. PAYE Regulations set out the basic rules governing PAYE and tax deductions to be made from payments to employees. They also set out how employers should report certain information in connection with those payments to HMRC. Section 684 of ITEPA requires the Commissioners to make PAYE Regulations and sets out what types of provision PAYE Regulations may include.
12. The amendments provided by this section will give HMRC additional powers that will facilitate the introduction of the Real Time Information (RTI) programme. They will allow PAYE Regulations to authorise or require certain persons who make payments that are subject to PAYE by electronic means to insert a cross reference into the information provided to HMRC about that payment and the instruction to the payment service provider to make the payment. This cross reference will enable HMRC to link and check the information submitted to HMRC against payments actually made. The regulations and directions which HMRC intends to make under this power will detail who, and which payment services, are affected.
13. RTI will improve the operation of PAYE by making the system easier to administer. Under RTI, information about tax and other deductions will be collected and transmitted to HMRC every time an employee is paid.
14. HMRC has engaged extensively with employers and other interested parties about the design and introduction of RTI. A discussion paper ‘Improving the operation of Pay As You Earn (PAYE)’ was published on 27 July 2010. A second stage of consultation ‘Improving the operation of Pay As You Earn (PAYE): Collecting Real Time Information’ began on 3 December 2010, and a summary of responses to this consultation was published on 30 September 2011. These documents can be found on the HMRC website at: ‘<http://www.hmrc.gov.uk/rti/index.htm>’.
15. HMRC also sought comments on draft amendments to the regulations dealing with PAYE, National Insurance Contributions and the Construction Industry Scheme, which will provide for the introduction of RTI. The draft regulations were released for comment on Monday 14 November 2011 together with a technical note. The closing date was 9 January 2012.