
STATUTORY INSTRUMENTS

2003 No. 2682

The Income Tax (Pay As You Earn) Regulations 2003

PART 5

EMPLOYERS

Death of employer and succession

Death of employer

101.—(1) This regulation applies if an employer dies.

(2) Anything which the employer would have been liable to do under these Regulations must be done by the employer's personal representatives.

(3) But if the employer made payments on behalf of another person ("the principal"), anything which the employer would have been liable to do under these Regulations in respect of or in connection with those payments must be done by the principal.

Succession to a business etc

102.—(1) This regulation applies if there is a change in an employee's employer while the employee remains in employment in the same business.

(2) This regulation also applies if there is a change in the pension payer who pays a pension to a pensioner.

(3) The change is not to be treated as a cessation of employment for the purposes of regulation 36 (cessation of employment: Form P45).

(4) The new employer is, in relation to any matter arising after the change, liable to do anything which the former employer would have been liable to do under these Regulations if the change had not taken place.

(5) Paragraph (4) is subject to paragraphs (6) and (7) and regulation 104 (succession to a business: trade disputes).

(6) The new employer is not liable for the payment of any tax which was deductible from relevant payments made to the employee—

- (a) before the change took place, unless those payments were made by the new employer, or
- (b) by the former employer after the change took place.

(7) The new employer is not liable for the payment of any tax which was to be deducted or accounted for in accordance with regulation 62(4) or (5) (notional payments) in respect of notional payments made to the employee—

- (a) before the change took place, unless those payments were made by the new employer, or
- (b) by the former employer after the change took place.

(8) The former employer must give the new employer any particulars which the new employer needs in order to comply with this regulation.

(9) In paragraph (1), “business” includes any trade, concern or undertaking.

Death and succession

103.—(1) Regulation 101 (death of employer) does not affect the operation of regulation 102 (succession to a business etc) for the purposes of which the deceased employer’s personal representative or the principal may also be the new employer.

(2) But paragraph (3) applies where a person (“P”) is both the new employer and also the deceased employer’s personal representative or the principal.

(3) Paragraphs (6) and (7) of regulation 102 (new employer not liable for certain payments of tax) do not apply to P in P’s capacity as personal representative or principal.

(4) “Principal” has the same meaning as in regulation 101.

Succession to a business: trade disputes

104.—(1) This regulation applies if a trade dispute began, but did not end, before a change to which regulation 102 (succession to a business etc) applies took place.

(2) The former employer must comply with regulations 64(8) (trade disputes: payments to Revenue) and 75 (additional return in case of trade dispute) as though the time limit of 42 days ran out on the date on which the change took place.

(3) The new employer is liable to repay, in accordance with regulation 64, any tax that was withheld in the tax year in which the change took place by the former employer.

(4) The new employer may recover from the Board of Inland Revenue an amount repayable under paragraph (3), as if it were an amount recoverable under regulation 68(3)(b) (periodic payments to and recoveries from Revenue).

(5) But any amount recovered under paragraph (4) must be ignored when determining how much the new employer must pay or can recover under regulation 68.