

2014 No. 2397

SOCIAL SECURITY

**The Social Security (Contributions) (Amendment No. 4)
Regulations 2014**

Made - - - - 11.16.a.m. on 11th September 2014

Laid before Parliament 12th September 2014

Coming into force - - 6th October 2014

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 175(4)(a) of, and paragraph 6(1) and (2) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(b) and by section 171(4)(c) of, and paragraph 6(1) and (2) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(d) and now exercisable by them(e).

Citation, commencement, effect and interpretation

1.—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment No. 4) Regulations 2014 and come into force on 6th October 2014.

(2) Regulation 3(4) has effect in relation to a failure to deliver a return to Her Majesty's Revenue and Customs in respect of any payment of general earnings made on or after 6th October 2014.

(3) Regulation 3(5) has effect in relation to a failure to deliver a return to Her Majesty's Revenue and Customs in respect of any payment of general earnings made—

- (a) on or after 6th October 2014 where the employer is a large existing Real Time Information employer; and
- (b) on or after 6th March 2015 where—
 - (i) the employer is a small existing Real Time Information employer; or
 - (ii) a person becomes a new Real Time Information employer after 6th October 2014.

(a) 1992 c. 4. Section 175(4) has been amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).

(b) Paragraph 6(1) and (2) was amended by paragraph 77 of Schedule 7 to the Social Security Act 1998 (c. 14). Paragraph 6(1) was amended by paragraph 35 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, so that the power to make regulations became exercisable by the Inland Revenue, and by paragraph 185 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) ("ITEPA").

(c) 1992 c. 7. Section 171 has been relevantly amended by S.I. 1993/1579 (N. I. 8), 1994/1898 (N.I. 12) and 1999/671.

(d) Paragraph 6(1) and (2) was amended by paragraph 58(8) and (9) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)). Paragraph 6(1) was amended by paragraph 204 of Schedule 6 to ITEPA and by paragraph 34 of Schedule 3 to the Social Security (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) so that the power to make regulations became exercisable by the Inland Revenue.

(e) The functions of the Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as is appropriate in consequence of section 5, a reference, howsoever expressed, to the Commissioners of Inland Revenue is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(4) In this regulation—

“general earnings” has the meaning given by paragraph 1(2) of Schedule 4 to the Social Security (Contributions) Regulations 2001 (interpretation)(a);

“large existing Real Time Information employer” means a Real Time Information employer which as at 6th October 2014 employs at least 50 employees;

“new Real Time Information employer” means a Real Time Information employer to which HMRC issues an employer’s PAYE reference after 6th October 2014;

“Real Time Information employer” has the meaning given by paragraph 1(4) of Schedule 4 to the Social Security (Contributions) Regulations 2001 (interpretation)(b);

“small existing Real Time Information employer” means a Real Time Information employer which as at 6th October 2014 employs no more than 49 employees.

(5) For the purposes of paragraph (4) “employer’s PAYE reference” in relation to a Real Time Information employer means the combination of letters, numbers, or both, used by HMRC to identify a Real Time Information employer for the purposes of the Income Tax (Pay As You Earn) Regulations 2003(c) and the number which identifies that employer’s HMRC office.

Amendment of the Social Security (Contributions) Regulations 2001

2. The Social Security (Contributions) Regulations 2001 are amended as provided for in regulation 3.

3.—(1) Schedule 4 to the Social Security (Contributions) Regulations 2001 (provisions derived from the Income Tax Acts etc) is amended as provided for in paragraphs (2) to (7).

(2) In paragraph 1, (interpretation), in the definition of “Compensation of Employers Regulations” omit “and the Statutory Sick Pay Percentage Threshold Order 1995”.

(3) In paragraph 11(4), (payments of earnings-related contributions quarterly by an employer)(d), in the definition of “SP” omit “statutory sick pay,”.

(4) In paragraph 21EA(6), (failure to make a return under paragraph 21A or 21D)(e), at the end of the text insert “, but this sub-paragraph does not apply to a return in respect of the tax year 2014-15 or a subsequent tax year”.

(5) After paragraph 21F, (additional information about payments)(f), insert—

“Penalty: failure to comply with paragraph 21A or 21D

21G.—(1) Where a Real Time Information employer fails to deliver a return in accordance with paragraph 21A (real time returns of information about payments of general earnings) to paragraph 21AB (employees paid in specific circumstances)(g), paragraph 21AD (benefits and expenses – returns under the PAYE Regulations)(h), paragraph 21B (modification of the requirements of paragraph 21A: notional payments)(i) or paragraph

(a) S.I. 2001/1004, relevant amending instruments are S.I. 2003/193, 2004/770, 2006/576, 2007/1056, 2010/721, 2010/450, 2012/821, 2013/622, 2013/2301 and 2014/608; there are other amending instruments but none are relevant. The definition of general earnings in paragraph 1(2) of Schedule 4 was amended by regulation 20 of S.I. 2012/821.

(b) The reference to “general earnings” in paragraph 1(2) and paragraph 1(4) were inserted by regulation 5 of S.I. 2012/821 and amended by regulation 6 of S.I. 2013/622.

(c) S.I. 2003/2682.

(d) Paragraph 11(4) was substituted by regulation 16(1) and (4) of S.I. 2003/193 and has been amended by regulation 9 of S.I. 2006/576, regulation 8(6) of S.I. 2007/1056, regulation 4 of S.I. 2010/2450 and regulations 7 and 24 of S.I. 2012/821.

(e) Paragraph 21EA was inserted by regulation 16 of S.I. 2013/622 and amended by regulation 4 of S.I. 2013/2301.

(f) Paragraph 21F was inserted by regulation 11 of S.I. 2012/821 and amended by regulation 17 of S.I. 2013/622.

(g) Paragraph 21A was inserted by regulation 11 of S.I. 2012/821. and has been amended by regulation 10 of S.I. 2013/622, regulation 3 of S.I. 2013/2301 and regulation 7 of S.I. 2014/608. Paragraphs 21AA and 21AB were inserted by regulation 11 of S.I. 2013/622.

(h) Paragraph 21AD was inserted by regulation 11 of S.I. 2013/622.

(i) Paragraph 21B was inserted by regulation 11 of S.I. S.I. 2012/821 and amended by regulation 12 of S.I. 2013/622.

21D (exceptions to paragraph 21A)(a), Schedule 55 to the Finance Act 2009 (amount of penalty: real time information for PAYE)(b) and regulations 67I to 67K of the PAYE Regulations (penalties)(c) apply in relation that failure as if—

(a) the return under paragraph 21A (real time returns of information about payments of general earnings) or paragraph 21D (exceptions to paragraph 21A), as the case may be, were a return falling within item 4 of the Table in paragraph 1 of Schedule 55(d), and

(b) references to the PAYE Regulations were references to these Regulations, but this is subject to sub-paragraph (2).

(2) Where a Real Time Information employer (P) is liable to a penalty in consequence of a failure to deliver a return (“the tax return”) under regulation 67B (real time returns of information about relevant payments) or regulation 67D (exceptions to regulation 67B) of the PAYE Regulations(e), P shall not also be liable to a penalty in respect of any failure in relation to an associated return under paragraph 21A (real time returns of information about payments of general earnings) or 21D (exceptions to paragraph 21A).

(3) A tax return and a return under paragraph 21A or 21D are “associated” if the return under paragraph 21A or 21D is required to be delivered at the same time as the tax return.”.

(6) In paragraph 22, (return by employer at end of year)(f), omit sub-paragraph (3).

(7) Omit paragraph 25 (return by employer of recovery under the Statutory Sick Pay Order)(g).

(8) In Schedule 4A, (real time returns), omit paragraph 13 (information about statutory sick pay)(h).

(9) In Schedule 4B, (additional information about payments), omit paragraph 6.

(10) In Part 2 of Schedule 7, (enactments corresponding to subordinate legislation application to Great Britain)(i)—

(a) in the first column (subordinate legislation applying in Great Britain) omit the entry relating to the “Statutory Sick Pay Percentage Threshold Order 1995”; and

(b) in the second column (subordinate legislation applying in Northern Ireland) omit the entry relating to the “Statutory Sick Pay Percentage Threshold Order (Northern Ireland) 1995”.

*Jim Harra
Edward Troup*

At 11.16.a.m.on 11th September 2014 Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedules 4, 4A and 4B to the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the principal Regulations”).

(a) Paragraph 21D was inserted by regulation 11 of S.I. 2012/821 and has been amended by regulation 14 of S.I. 2013/622 and regulation 8 of S.I. 2014/608.

(b) 2009 c. 10. Schedule 55 has been relevantly amended by paragraphs 3 to 6 of Schedule 50 to the Finance Act 2013 (c. 29).

(c) The term “PAYE Regulations” is defined in regulation 1(2) and was inserted by regulation 3 of S.I. 2004/770. Regulations 67I to 67K were inserted into the PAYE Regulations by regulation 2 of S.I. 2014/2396.

(d) Item 4 of the Table in paragraph 1 of Schedule 55 to the Finance Act 2009 was amended by paragraph 3(a) of Schedule 50 to the Finance Act 2013.

(e) Regulations 67B and 67D were inserted into the PAYE Regulations by regulation 27 of S.I. 2012/822 and have been amended by regulations 18 and 21 of S.I. 2013/521. Regulation 67B has been amended by regulation 2 of S.I. 2013/2300 and by regulation 4 of S.I. 2014/472. Regulation 67D has been amended by regulation 5 of S.I. 2014/472. Regulations 67BA and 67BB were inserted by regulation 19 of S.I. 2013/522.

(f) Paragraph 22 has been amended but the amendments are not relevant to sub-paragraph (3).

(g) Paragraph 25 has been amended by regulation 32(1) and (15) of S.I. 2004/770 and regulations 13 and 30 of S.I. 2012/822.

(h) Schedules 4A and 4B were inserted by regulation 14 of S.I. 2012/821 and have not been relevantly amended.

(i) Part 2 of Schedule 7 has been amended by regulations 26(c) and 31 of S.I. 2012/821.

Regulation 3(2), (3) and (6) to (10) amend the principal Regulations to remove references to the statutory sick pay percentage threshold scheme and the requirement on employers to report payments of statutory sick pay to HMRC as a consequence of the Statutory Sick Pay Percentage Threshold (Revocations, Transitional and Savings Provisions) (Great Britain and Northern Ireland) Order 2014 (S1 2014/897) (“the Order”). The Order which came into force on 6th April 2014 abolished the statutory sick pay percentage threshold scheme (the Scheme) with effect from that date. Employers have until 5th April 2016 to recover amounts of statutory sick pay paid in the years up to 5 April 2014. As a consequence of the Order an employer is no longer required to report amounts recovered under the Scheme or to report details of statutory sick pay.

Regulation 3(4) and (5) are consequential upon the Finance Act 2009, Schedule 55 (Penalties for failure to make returns) (Appointed Days and Consequential Provision) Order 2014 (S.I. 2014/2395) (C.105) which appointed the days from which penalties in paragraph 6C of Schedule 55 to the Finance Act 2009 (c. 10) will apply to returns under regulation 67B and regulation 67D of the Income Tax (Pay As You Earn) Regulations 2003.

Regulation 3(4) amends paragraph 21EA(6) of Schedule 4 to the principal Regulations so that that paragraph does not apply to returns in relation to the tax year 2014-15 and subsequent tax years. This amendment is consequential upon the introduction of the in year late filing penalties in Schedule 55 to the Finance Act 2009 (c. 10).

Regulation 3(5) inserts new paragraph 21G into Schedule 4 to the principal Regulations. This paragraph applies Schedule 55 to the Finance Act 2009 and regulations 67I to 67K of the Income Tax (Pay As You Earn) Regulations 2003 (“the PAYE Regulations”) (S.I. 2003/2682) to returns made under paragraph 21A or paragraph 21D of Schedule 4 to the principal Regulations. Those regulations, which were inserted into the PAYE Regulations by the Income Tax (Pay As You Earn) (Amendment No. 3) Regulations 2014 (S.I. 2014/2396) set the quantum of the penalties by reference to the number of employees in the period to which the return relates; set the length of the initial period and set out the circumstances in which an employer will be liable to a penalty for the first failure to deliver a return in the tax year. Where an employer is also required to deliver a return under regulation 67B or regulation 67D of the PAYE Regulations, that employer will not be liable to a penalty in respect of a failure to deliver a return under paragraph 21A or paragraph 21D if the return under the principal Regulations is associated with the return under the PAYE Regulations.

A Tax Information and Impact Note has not been prepared for regulation 3(2), (3) and (6) to (10) as those provisions contain no substantive changes to tax policy.

A Tax Information and Impact Note covering regulation 3(4) and (5) was published on 20 March 2013 alongside the Budget documentation and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

© Crown copyright 2014

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.25

UK2014091125 09/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/2397>

ISBN 978-0-11-112073-6



9 780111 120736