EXPLANATORY MEMORANDUM TO

THE INCOME TAX (PAY AS YOU EARN) (AMENDMENT NO. 2) REGULATIONS 2025

2025 No. 1144

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. Declaration

2.1 Dan Tomlinson MP, Exchequer Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Morgan, Deputy Director for Tax Administration Directorate, at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Craig Maffey at HMRC can be contacted by email at the following address with any queries regarding the instrument: payepolicyteam@hmrc.gov.uk or at HMRC Telephone: 03000 517956.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This statutory instrument amends the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) ("the PAYE Regulations") so that the definition of Inland Revenue includes Commissioners of HMRC in addition to officers of HMRC. The instrument also makes a consequential amendment to avoid referring to delivery of information to the Commissioners twice in the same regulation.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 Currently, the PAYE Regulations define "Inland Revenue" as "any officer of the Board of Inland Revenue" which now means any officer of HMRC. These Regulations amend the definition of "Inland Revenue" to include the Commissioners of HMRC as well as officers of HMRC.

5.2 The Commissioners for Revenue and Customs Act 2005 which created HMRC enables Commissioners of HMRC to delegate the majority of functions that are conferred on them in statute, subject to putting in place appropriate monitoring

arrangements. By contrast, functions conferred on officers in statute are not capable of being delegated. There are a number of functions in the PAYE Regulations which can only be exercised by those appointed as HMRC officers which restricts the ability of HMRC to service PAYE employees more flexibly. This change is being made to allow HMRC Commissioners to consistently exercise and, where they consider appropriate, delegate some of the tasks set out in the PAYE Regulations.

What was the previous policy, how is this different?

5.3 The previous policy was to carry out PAYE functions internally by HMRC staff. Broadening the definition to include the Commissioners of HMRC as well as officers of HMRC will allow further PAYE functions to be delegated to external providers, if the Commissioners decide it is appropriate to do so, and reasonable monitoring arrangements are put in place. Without this amendment HMRC would be unable to delegate functions conferred on officers in the PAYE Regulations, in the way it is able to delegate certain other functions and utilise wider methods of meeting customer needs.

5.4 The range of functions which can now be delegated includes matters relating to the determination, amendment and issuing of tax codes. This means that calls from PAYE employees seeking support from HMRC which encompass these functions can be delegated to external provider(s) subject to the approval of the Commissioners as they may decide appropriate.

5.5 This will give greater flexibility for HMRC to better support customers and help ensure service standards.

6. Legislative and Legal Context

How has the law changed?

6.1 The law has changed the definition of "Inland Revenue" in the PAYE Regulations from "any officer of the Board of Inland Revenue" to "HMRC". This means it now includes the Commissioners of HMRC as well as officers of HMRC. This is consistent with amendments made to the PAYE Regulations after HMRC was set up under the Commissioners for Revenue and Customs Act 2005 where functions have often been conferred on HMRC rather than officers alone.

Why was this approach taken to change the law?

6.2 This is considered the most efficient way of making the changes and providing HMRC with flexibility in the way it delivers services to customers. Piecemeal amendments to individual provisions within the PAYE Regulations could have been made but such an approach is likely to result in multiple amendments being made over time and might provide HMRC with less flexibility in how functions are exercised.

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation was carried out on this instrument because it introduces a change to give greater flexibility to HMRC in the way it can support individuals who pay tax through PAYE.

8. Applicable Guidance

8.1 No guidance is being updated to reflect this change.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as it contains no substantive changes to tax policy, and the customer experience will remain the same.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument applies to individual PAYE customers.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument applies to individual PAYE customers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that any delegation that is enabled by this change would be subject to the usual monitoring and rules of the delegation of Commissioners powers already in force.

10.2 The instrument does not include a statutory review clause because in accordance with the requirements of the Small Business, Enterprise and Employment Act 2015, it is made in relation to the imposition of a tax, duty, levy or other charge.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").