STATUTORY INSTRUMENTS

# 2014 No. 608

# SOCIAL SECURITY

## The Social Security (Contributions) (Amendment) Regulations 2014

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| *Made - - - -* | *13th March 2014* |
| *Laid before Parliament* | *13th March 2014* |
| *Coming into force - -* | *6th April 2014* |

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs with the concurrence of the Secretary of State and the Department for Social Development(**a**) in relation to regulation 4 and to regulation 2 in so far as it relates to regulation 4.

The powers exercised by the Treasury are those conferred by section 3(2) and (3) of the Social Security Contributions and Benefits Act 1992(**b**) and section 3(2) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**c**) and now exercisable by them.

The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those conferred by section 175(**d**) of, and paragraph 6(1) and (2) of Schedule 1 to, the Social Security Contributions and Benefits Act 1992(**e**) and by section 171(**f**) of, and paragraph 6(1) and (2) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**g**) and now exercisable by them(**h**).

(**a**) The functions of the Department of Health and Social Services for Northern Ireland under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) were transferred to the Department for Social Development by Article 8(b) of, and Part 2 of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S. R. (NI) 1999 No. 481).

(**b**) 1992 c. 4 ("the 1992 Act"). Section 3(2) of the 1992 Act was amended, and the power to make regulations under it transferred to the Treasury, by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) ("the Transfer Act").

(**c**) 1992 c. 7 (N.I.) ("the Northern Ireland Act"). Section 3(2) of the Northern Ireland Act was amended, and the power to make regulations under it transferred to the Treasury, by S.I. 1999/671 ("the Transfer Order").

(**d**) Section 175 has been amended by paragraph 29 of Schedule 3 to the Transfer Act.

(**e**) 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 Transfer Act, so that the power to be 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 2003").

(**f**) Section 171 has been relevantly amended by S.I. 1993/1579, 1994/1898 and 1999/671.

(**g**) 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. 1998/1056 (N.I. 10)). Paragraph 6(1) was amended by paragraph 34 of Schedule 3 to the Transfer Order.

(**h**) 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.

**Citation, commencement and effect**

**1.**—(1) These Regulations may be cited as the Social Security (Contributions) (Amendment) Regulations 2014 and come into force on 6th April 2014.

(2) Regulation 3 has effect in relation to a payment made in relation to the tax year 2014-15 and subsequent tax years.

(3) Regulation 4 has effect in relation to expenses incurred on or after 6th April 2014.

**Amendment of the Social Security (Contributions) Regulations 2001**

**2.** The Social Security (Contributions) Regulations 2001(**a**) are amended as provided for in regulations 3 to 10.

**Amendment of regulation 67A (penalty for failure to make payments on time: Class 1 contributions)**

**3.** In regulation 67A (penalty for failure to make payments on time: Class 1 contributions)(**b**) after "1999." insert—

"(2) Regulation 69A of the PAYE Regulations (circumstances in which payment of a lesser amount is to be treated as payment in full for the purposes of paragraph 6(2) of Schedule 56 to the Finance Act 2009)(**c**) applies in relation to the late payment of Class 1 contributions as if—

(a) the Class 1 contributions were an amount of tax falling within item 2 of the Table in paragraph 1 of that Schedule,

(b) references to regulations 67G and 67H(2) were references to paragraphs 10 and 11 of Schedule 4 to these Regulations, and

(c) references to earnings-related contributions were references to tax deducted under the PAYE Regulations.",

and as a consequence regulation 67A becomes regulation 67A(1).

**Amendment of Part 8 of Schedule 3**

**4.** Amend Part 8 (travelling, relocation and other expenses and allowances of the employment) of Schedule 3 (payments to be disregarded in the calculation of earnings for the purposes of earnings-related contributions) by inserting after paragraph 3 (travelling expenses–general)—

**"Travel by unpaid directors of not-for-profit companies**

**3A.**—(1) A payment of, or contribution towards, the expenses of the earner's employment if or to the extent that payment or contribution is paid wholly and exclusively for the purposes of paying or reimbursing travel expenses in respect of which conditions A to C are met.

(2) Condition A is that —

(a) the earner is obliged to incur the expenses as holder of the employment, and

(b) the expenses are attributable to the earner's necessary attendance at any place in the performance of the duties of the employment.

(3) Condition B is that the employment is employment as a director of a not-for-profit company.

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(**a**) S.I. 2001/1004: relevant amending instruments are S.I. 2004/770, 2007/1056, 2010/721, 2012/821, 2013/622 and 2013/2301.
(**b**) Regulation 67A was inserted by regulation 3 of S.I. 2010/721.
(**c**) Regulation 69A was inserted into the PAYE Regulations by regulation 7 of S.I. 2014/472.

(4) Condition C is that the employment is one from which the earner receives no earnings other than sums—

(a) paid to the earner in respect of expenses, and

(b) which are so paid by reason of the employment.

(5) In this paragraph—

(a) "director" has the same meaning as in the benefits code (see section 67 of ITEPA 2003)(**a**), and

(b) "not-for-profit company" means a company that does not carry on activities for the purpose of making profits for distribution to its members or others.

**Travel where directorship held as part of a trade or profession**

**3B.** A payment of, or contribution towards, the expenses of the earner's employment to the extent that those expenses are travel expenses which are exempt from income tax in accordance with section 241B of ITEPA 2003(**b**) (travel where directorship held as part of a trade or profession).

**Travel between linked employments**

**3C.** A payment of, or contribution towards, the expenses of the earner's employment to the extent that those expenses are travel expenses deductible for income tax purposes in accordance with section 340A of ITEPA 2003(**c**) (travel between linked employments).".

**Amendment of Schedule 4**

**5.** Schedule 4 (provisions derived from the Income Tax Acts and the PAYE Regulations) is amended as provided for in regulations 6 to 10.

**6.** In paragraph 1(2) (interpretation) in the definition of "deductions working sheet" omit from "or the form" to the end of the definition.

**7.** In paragraph 21A (real time returns of information about payments of general earnings)(**d**)—

(a) in sub-paragraph (1) for "sub-paragraphs (1A) and (1B)" substitute "sub-paragraph (1A)", and

(b) for sub-paragraphs (1A) and (1B) substitute—

"(1A) But a Real Time Information employer—

(a) which for the tax year 2014-15 meets Conditions A and B, or

(b) which for the tax year 2015-16 meets Conditions A and C,

may instead for that tax year deliver to HMRC the information specified in Schedule 4A (real time returns) in respect of every payment of general earnings made to an employee in a tax month on or before making the last payment of general earnings in that month.

(1B) Condition A is that at 5th April 2014 the employer is one to whom HMRC has issued an employer's PAYE reference.

(1C) Condition B is that at 6th April 2014 the Real Time Information employer employs no more than 9 employees.

(1D) Condition C is that at 6th April 2015 the Real Time Information employer employs no more than 9 employees.

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(**a**) Section 122 of the 1992 Act, as amended by paragraphs 169 and 178 of Schedule 6 to ITEPA 2003, defines "ITEPA" as meaning the Income Tax (Earnings and Pensions) Act 2003.

(**b**) Section 241B of ITEPA 2003 was inserted by article 2 of S.I. 2014/211.

(**c**) Section 340A of ITEPA 2003 was inserted by article 2 of S.I. 2014/2011.

(**d**) Paragraph 21A was inserted by regulation 11 of S.I. 2012/821 and has been amended by regulation 10 of S.I. 2013/622 and by regulation 3 of S.I. 2013/2301.

(1E) In this paragraph "employer's PAYE reference" means—

(a) the combination of letters, numbers, or both, used by HMRC to identify an employer for the purposes of the PAYE Regulations, and

(b) the number which identifies the employer's HMRC office.".

**8.** In paragraph 21D (exceptions to paragraph 21A)(**a**)—

(a) at the end of sub-paragraph (1) insert—

"But this is subject to sub-paragraph (2B).",

(b) after sub-paragraph (2A) insert—

"(2B) This paragraph does not apply if a Real Time Information employer within sub-paragraph (1) makes a return using an approved method of electronic communications.", and

(c) in sub-paragraphs (3), (5) and (6) for "month", wherever it occurs, substitute "quarter".

**9.** In paragraph 21E (returns under paragraphs 21A and 21D: amendments)(**b**)—

(a) in sub-paragraph (1) for "an employer discovers an error in a return" substitute "there is an inaccuracy in a return, whether careless or deliberate,",

(b) in sub-paragraphs (2) and (3) for "error" substitute "inaccuracy",

(c) for sub-paragraph (5) substitute—

"(5) When the employer becomes aware of an inaccuracy in a return under paragraph 21A or 21D, the employer must provide the correct information in the next return for the tax year in question.", and

(d) in sub-paragraph (7)(b) for "discovery of the error" substitute "employer becomes aware of the inaccuracy".

**10.** In paragraph 31 (direct collection involving deductions working sheets)(**c**)—

(a) in sub-paragraph (1) omit the text from "HMRC may" to "30A,",

(b) in sub-paragraph (2)—

(i) omit from "to whom" to "sub-paragraph (1)",

(ii) for "that working sheet" which occurs immediately before "his name" substitute "a working sheet", and

(iii) for "the year for which the deductions working sheet was issued" substitute " the relevant tax year",

(c) after sub-paragraph (3) insert—

"(3A) Before 20 May 2014 the employee must deliver to HMRC a return in the prescribed form for the tax year 2013-14 showing the following information:

(a) the total amount of the general earnings and earnings-related contributions payable during the tax year 2013-14,

(b) the appropriate category letter,

(c) the employee's name and address, and

(d) the employee's national insurance number, and

the provisions of paragraph 22(5) regarding the certification and recovery of earnings-related contributions remaining unpaid by an employer for any year shall apply in the case of any earnings-related contributions remaining unpaid by the employee.",

(d) in sub-paragraph (8) omit "issued under sub-paragraph (1)", and

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(**a**) Paragraph 21D was inserted by regulation 11 of S.I. 2012/821 and amended by regulation 14 of S.I. 2013/622.
(**b**) Paragraph 21E was inserted by regulation 11 of S.I. 2012/821 and amended by regulation 15 of S.I. 2013/622.
(**c**) Paragraph 31 has been amended by regulation 33 of S.I. 2004/770, regulation 8 of S.I. 2007/1056 and regulation 21 of S.I. 2013/622.

(e) in sub-paragraph (9) for "(6), (7)" substitute "(3A)".

*Jim Harra*
*Ruth Owen*
13th March 2014 Two of the Commissioners for Her Majesty's Revenue and Customs

*Mark Lancaster*
*Sam Gyimah*
12th March 2014 Two of the Lords Commissioners of Her Majesty's Treasury

The Secretary of State concurs with the making of these Regulations as indicated in the preamble.
Signed by the authority of the Secretary of State for Work and Pensions.

*Steve Webb*
Minister of State
10th March 2014 Department for Work and Pensions

The Department for Social Development concurs with the making of these Regulations as indicated in the preamble.

Sealed with the Official Seal of the Department for Social Development on 6th March 2014

L.S.

*Anne McCleary*
6th March 2014 A senior official of the Department for Social Development

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) ("the principal Regulations").

Regulation 3 amends regulation 67A of the principal Regulations to make provision for a tolerance of £100 between the amount due and the sum paid over to Her Majesty's Revenue and Customs ("HMRC") for a tax period. As a consequence where there is a difference between the amount due and the amount paid of no more than £100, the employer will not be liable to a late payment penalty under Schedule 56 to the Finance Act 2009 (c. 10).

Regulation 4 amends Part 8 of Schedule 3 to the principal Regulations to make provision for disregarding certain travel expenses in the calculation of earnings from employed earners' employment when computing liability for Class 1 National Insurance Contributions. Sections 241A, 241B and 340A of the Income Tax (Earnings and Pensions) Act 2003 (2003 c.1; "ITEPA") were inserted by SI 2014/211 and enacted existing HMRC extra-statutory concessions set out in paragraphs (a), (b) and (c) of the concession numbered A4. A list of extra-statutory concessions published by HMRC is available at: http://www.hmrc.gov.uk/specialist/esc.pdf. These sections provide that no liability to income tax will arise (or, in the case of section 340A, that a deduction

is allowed for income tax purposes) in relation to travel expenses which meet the criteria set out in those sections.

Regulation 5 introduces the amendments to Schedule 4 to the principal Regulations, which Schedule, amongst other matters, makes provision for the return of information to HMRC in real time.

Regulation 6 amends the definition of "deductions working sheet" in paragraph 1 to reflect that HMRC will no longer be issuing deductions working sheets to employers who are required to file using an approved method of electronic communications.

Regulation 7 amends paragraph 21A which requires a Real Time Information ("RTI") employer to provide the information specified in Schedule 4A to those Regulations on or before making a payment to an employee. Regulation 7 substitutes paragraph 21A(1A) and (1B) and inserts new sub-paragraphs (1C), (1D) and (1E). These sub-paragraphs alter the filing requirement for either or both of the tax years 2014-15 and 2015-16 for employers who are existing employers at 5th April 2014 and who employ no more than 9 employees. Where in the tax year 2014-15 Conditions A and B are met and where in the tax year 2015-16 Conditions A and C are met, these employers are permitted to deliver one return, on or before the date of the last payment in that tax month, in respect of all the relevant payments in that month. Condition A (paragraph (1B)) is that at 5th April 2014 the employer must have an employer's PAYE reference (a reference issued by HMRC to identify each PAYE Scheme). Condition B (paragraph (1C)) and Condition C (paragraph (1D)) are that at 6th April 2014 and 6th April 2015 the employer employs no more than 9 employees.

Regulation 8 makes two amendments to paragraph 21D, which allows certain employers ("paper filer employers") to file on paper rather than using an approved method of electronic communications. Regulation 8(a) and (b) clarify that where a paper filer employer files a return electronically, that employer will no longer be within paragraph 21D. As a consequence the employer will be required to make returns on or before making a payment to an employee. Regulation 8(c) amends paragraph 21D so that paper filer employers are required to submit information within 14 days of the end of a tax quarter.

Regulation 9 makes minor amendments to paragraph 21E to clarify that the paragraph applies to both a careless inaccuracy and a deliberate inaccuracy in, or omission from, a return.

Regulation 10 amends paragraph 31 which makes provision for direct collection by an employee where the employer has no presence in the United Kingdom. The regulation makes a number of amendments including making provision requiring such an employee to deliver a final return to HMRC for the tax year 2013-14 by 19th May 2014 and lists the information to be provided, including the total of general earnings received and earnings-related contributions payable in that tax year.

A Tax Information and Impact Note covering this instrument (with the exception of regulations 3 and 4) was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S. I. 2012/822). This was updated as a result of changes to the impacts as a result of the year long pilot on RTI 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.

A Tax Information and Impact Note covering regulation 3 was published on 20th 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 regulation 3.

In line with government commitments, a Tax Information and Impact Note has not been prepared in respect of regulation 4. There has been no change in policy, and there is no change to the tax, administrative or other impacts.

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