

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO.3)
REGULATIONS 2013**

2013 No. [XXXX]

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes further amendments to the Social Security (Contributions) Regulations 2001 (S.I. 2001 No. 1004) ("the SSCR 2001") that are necessary for the operation of HMRC's Real Time Information (RTI) by employers with 49 or fewer employees from 6th October 2013.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative context

4.1 RTI employers are required by Schedule 4 of the SSCR 2001 to report payments to employees and the deduction of National Insurance Contributions (NICs) to HMRC each time a payment is made. This is done using a return which is required to contain certain information about the employee's pay and NICs.

4.2 These Regulations make amendments to the SSCR 2001 to allow for changes in the operation of RTI from 6th October 2013 in relation to certain employers (those who employ 49 or fewer employees as at 6th October 2013). In particular, they relax the requirement that these employers should deliver a return to HMRC on or before they make a payment of general earnings to their employee.

4.3 The collection of NICs relies on the PAYE system. Amendments to the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682) are being made by HMRC at the same time as these Regulations to mirror these NICs changes.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

- *What is being done and why*

- 7.1 HMRC started to pilot RTI from 6th April 2012 and the SSCR 2001 were amended with effect from that date to facilitate its introduction. Further amendments were introduced to reflect changes to employers' obligations under RTI from 6 April 2013.
- 7.2 There are some specific circumstances where employers may not be able to fulfil the requirement to send in a return on or before they make a payment to an employee. In March 2013 HMRC announced a relaxation of the requirement for employers with 49 or fewer employees to send in their RTI return on or before they pay their employees and this is to continue until 5 October 2013.
- 7.3 In June 2013 Ministers announced that the relaxation was to be extended to 5th April 2014. Regulation 3 amends the SSCR 2001 to bring into legislation the relaxation to allow employers with 49 or fewer employees to submit a return up to the end of the tax month in which the payment is made to the employee.
- 7.4 An example could be where an employer finds it difficult to report every payment to their employees at the time of payment but doesn't run their payroll software until the end of the month. In these circumstances they will be permitted to send in their return no later than end of the tax month in which the payments are made.
- 7.5 Regulation 3 will apply in respect of a payment of general earnings made in the period 6th October 2013 to 5th April 2014. As from 6th April 2014 these employers will be required to file on or before the making of such a payment to an employee.
- 7.6 Regulation 4 makes a minor amendment to paragraph 21EA of Schedule 4 to the SSCR 2001 to make it clear that where an employer has failed to provide information specified in Schedule 4A by 19th May following the tax year in question the employer is liable to a penalty.

- *Consolidation*

- 7.7 There are currently no plans to consolidate the instrument that is being amended.

8. Consultation outcome

- 8.1 Following the publication of the relaxation on the HMRC website, HMRC has been discussing its implications with representatives of those employers affected by it. The amendment at regulation 3 of this instrument has been drafted as a consequence of those discussions. In the meantime HMRC will

continue to consult on this matter before making an announcement about what will happen beyond 6th April 2014.

9. Guidance

9.1 Extensive guidance has been published on HMRC's website for employers using RTI and this will be updated to reflect these changes.

10. Impact

10.1 All employers including charities or voluntary bodies will be required to report using RTI.

10.2 The impact of RTI on the public sector is the same as for any other employer.

10.3 A Tax Information and Impact Note was published on 15th March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (SI 2012/822) and the Social Security (Contributions) (Amendment No. 3) Regulations (SI 2012/821). This was updated as a result of changes to the impacts following the year long RTI pilot and is available on the HMRC website at

<http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 RTI aims to reduce administrative burdens for all employers, including small employers and this amendment is intended to help achieve that aim.

12. Monitoring & review

12.1 RTI has been piloted from April 2012 and HMRC will continue to monitor the operation in particular the interaction with Universal Credit and consider further amendments as necessary.

13. Contact

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