STATUTORY INSTRUMENTS

2017 No. 1174

SOCIAL SECURITY

The National Insurance Contributions (Application of Part 7 of the Finance Act 2004) (Amendment) Regulations 2017

Made - - - - *29th November 2017*

Laid before Parliament *30th November 2017*

Coming into force in accordance with regulation 1.

The Treasury make the following Regulations in exercise of the powers conferred by sections 132A(1) and (2) and 189(4) and (5) of the Social Security Administration Act 1992(**1**).

Citation and commencement

1.—(1) These Regulations may be cited as the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) (Amendment) Regulations 2017.

(2) Subject to paragraph (3) these Regulations come into force on 21st December 2017.

(3) Regulations 6(b), 11 and 14(2)(c) come into force on 6th April 2018.

Amendment of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012

2. The National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012(**2**) are amended as follows.

3. In regulation 2 (interpretation) after the definition of "the Descriptions Regulations" insert—

""employer" means the secondary contributor determined under—

(a) section 7 of the Social Security Contributions and Benefits Act 1992(**3**);

(b) regulation 5 of, and Schedule 3 to, the Social Security (Categorisation of Earners) Regulations 1978(**4**); or

(**1**) 1992 c. 5; section 132A was inserted by section 7(1) and (2) of the National Insurance Contributions Act 2006 (c. 10). Section 189(4) was amended by Part 1 of the Schedule to the Public Bodies (Abolition of the Disability Living Allowance Advisory Board) Order 2013 (S.I. 2013/252). Section 189(4) and (5) was amended by paragraph 109 of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c. 14) and by S.I. 2013/252.

(**2**) S.I. 2012/1868.

(**3**) 1992 c. 4.

(**4**) S.I. 1978/1689 relevantly amended by S.I. 1990/1894, 1994/726, 1998/1728, 2003/736, 2003/2420, 2004/770, 2005/3133, 2012/816 and 2015/635.

(c) regulation 122 of the Social Security (Contributions) Regulations 2001(**5**);".

4. In regulation 3 (structure of the regulations) in paragraph (1) for "21" substitute "21D".

5. In the table at regulation 5(2) (provisions corresponding to Part 7 of the Finance Act 2004)(**6**)—

(a) after the row relating to section 310B (failure to provide information under section 310A: application to the Tribunal) insert—

"Section 310C (duty of promoters to provide updated information)	Regulation 11C";

(b) after the row relating to section 313ZB (enquiry following disclosure of client details) insert—

"Section 313ZC (duty of employer to notify HMRC of details of employees etc)"; and	Regulation 16B

(c) after the row relating to section 316 (information to be provided in form and manner specified by Board) insert—

"Section 316A (duty to provide additional information)	Regulation 21A
Section 316B (confidentiality)	Regulation 21B
Section 316C (publication by HMRC)	Regulation 21C
Section 316D (section 316C: subsequent judicial rulings)	Regulation 21D".

6. After regulation 11B (failure to provide information under regulation 11A: application to the Tribunal)(**7**) insert—

"**Duty of promoters to provide updated information**

11C.—(1) This regulation applies where—

(a) information has been provided under regulation 8 about any notifiable contribution arrangements, or proposed notifiable contribution arrangements, to which a reference number is allocated under regulation 12, and

(b) after the provision of information, there is a change in relation to the arrangements of a kind mentioned in paragraph (2).

(2) The changes referred to in paragraph (1)(b) are—

(a) a change in the name by which the notifiable contribution arrangements or proposed notifiable contribution arrangements, are known;

(b) a change in the name or address of any person who is a promoter in relation to the notifiable contribution arrangements or, in the case of proposed notifiable contribution arrangements, the notifiable contribution proposal.

(3) A person who is a promoter in relation to the notifiable contribution arrangements or, in the case of proposed notifiable contribution arrangements, the notifiable contribution

(**5**) S.I. 2001/1004.
(**6**) The table entries relating to "Section 310A" and "Section 310B" were inserted by S.I. 2015/531 and the table entries relating to "Section 312B" and "Section 313ZB" were inserted by S.I. 2013/2600.
(**7**) Regulation 11B was inserted by S.I. 2015/531.

proposal must inform HMRC of the change mentioned in paragraph (1)(b) within 30 days after it is made.

(4) Paragraphs (5) and (6) apply for the purposes of paragraph (3) where there is more than one person who is a promoter in relation to the notifiable contribution arrangements or notifiable contribution proposal.

(5) If the change in question is a change in the name or address of a person who is a promoter in relation to the notifiable contribution arrangements or notifiable contribution proposal, it is the duty of that person to comply with paragraph (3).

(6) If a person provides information in compliance with paragraph (3), the duty imposed by that paragraph on any other person, so far as relating to the provision of that information, is discharged.".

7. In regulation 12(1)(a) (arrangements to be given reference number), for "30 days" substitute "90 days".

8.—(1) In regulation 14 (duty of client to notify parties of number) after paragraph (2) insert—

8.—"(2A) Where the client—

(a) is an employer, and

(b) by reason of the contribution arrangements or proposed contribution arrangements, receives or might reasonably be expected to receive an advantage, in relation to the employment of one or more of the client's employees,

the client must, within the prescribed period, provide to each of the client's relevant employees prescribed information relating to the reference number.".

(2) In paragraphs (3) and (4) for "paragraph (2)" substitute "paragraph (2) or (2A)".

(3) After paragraph (3) insert—

"(3A) For the purposes of this regulation—

(a) "relevant employee" means an employee in relation to whose employment the client receives or might reasonably be expected to receive the advantage mentioned in paragraph (2A);

(b) "employee" includes former employee; and

(c) a reference to employment includes holding an office (and references to "employee" and "employer" are to be construed accordingly).".

9. In regulation 15 (duty of parties to notifiable contribution arrangements to notify HMRC of number etc) after paragraph (2) insert—

"(3) The duty under paragraph (1) does not apply in prescribed circumstances.".

10. After regulation 16A (enquiry following disclosure of client details)(**8**) insert—

"**Duty of employer to notify HMRC of details of employees etc**

16B.—(1) This regulation applies if conditions A, B and C are met.

(2) Condition A is that a person who is a promoter in relation to notifiable contribution arrangements or a notifiable contribution proposal is providing (or has provided) services in connection with the notifiable contribution arrangements or notifiable contribution proposal to a person ("the client").

(**8**) Regulation 16A was inserted by S.I. 2013/2600.

(3) Condition B is that the client receives information under regulation 13(2) or as mentioned in regulation 13(5).

(4) Condition C is that the client is an employer in circumstances where, as a result of the notifiable contribution arrangements or proposed notifiable contribution arrangements—

(a) one or more of the client's employees receive, or might reasonably be expected to receive, in relation to their employment, an advantage, or

(b) the client receives or might reasonably be expected to receive an advantage in relation to the employment of one or more of the client's employees.

(5) Where an employee is within paragraph (4)(a), or is an employee mentioned in paragraph (4)(b), the client must provide HMRC with prescribed information relating to the employee at the prescribed time or times.

(6) The client need not comply with paragraph (5) in relation to any notifiable contribution arrangements at any time after HMRC has given notice under regulation 13(6) or 15(2) in relation to the notifiable contribution arrangements.

(7) The duty under paragraph (5) does not apply in prescribed circumstances.

(8) Regulation 14(3A) applies for the purposes of this regulation as it applies for the purpose of that regulation.".

11. In regulation 19 (information provided to introducers)—

(a) for the heading substitute "Provision of information to HMRC by introducers",

(b) for paragraph (1) substitute—

"(1) This regulation applies where HMRC suspect—

(a) that a person ("P") is an introducer in relation to a proposal; and

(b) that the proposal may be a notifiable contribution proposal.",

(c) after paragraph (1) insert—

"(1A) HMRC may by written notice require P to provide HMRC with one or both of the following—

(a) prescribed information in relation to each person who has provided P with any information relating to the proposal;

(b) prescribed information in relation to each person with whom P has made a marketing contact in relation to the proposal.", and

(d) in paragraph (3) for "paragraph (1)" substitute "paragraph (1A)".

12.—(1) In regulation 21 (information to be provided in form and manner specified by HMRC)(**9**)—

(a) in paragraph (2) after "11A," insert "11C,", and

(b) for "and 16(3)" insert ", 16(3) and 16B(5)".

(2) After regulation 21 insert—

"**Duty to provide additional information**

21A.—(1) This regulation applies where a person is required to provide information under regulation 13(2) or 14(2) or (2A).

(**9**) Regulation 21 was amended by S.I. 2015/531.