STATUTORY INSTRUMENTS

2015 No. 171

INCOME TAX

The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015

Made - - - -	*9th February 2015*
Laid before the House of Commons - - - -	*10th February 2015*
Coming into force - -	*6th April 2015*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 113(1) of the Taxes Management Act 1970(**1**), section 136 of the Finance Act 2002(**2**) and now exercisable by them(**3**) and section 716B of the Income Tax (Earnings and Pensions) Act 2003(**4**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015.

(2) These Regulations come into force on 6th April 2015 and have effect in relation to tax quarters beginning on or after that date.

(3) In this regulation tax quarter has the meaning given in regulation 2(1) of the Income Tax (Pay As You Earn) Regulations 2003(**5**).

Amendment of the Income Tax (Pay As You Earn) Regulations 2003

2.—(1) The Income Tax (Pay As You Earn) Regulations 2003 are amended as follows.

(2) In regulation 2—

(a) for the definition of "agency worker" substitute—

(**1**) 1970 c. 9.
(**2**) 2002 c. 23.
(**3**) The functions of the Commissioners of 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 it is appropriate in consequence of section 5, a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.
(**4**) 2003 c. 1. Section 716B was inserted by section 18(1) of the Finance Act 2014 (c. 26).
(**5**) S.I. 2003/2682. Relevant amending instruments are S.I. 2009/56 and S.I. 2014/474.

""agency worker" means a worker who is treated by section 44 of ITEPA(**6**) as holding an employment with the agency for income tax purposes;";

(b) after the definition of "Board of Inland Revenue" insert—

""the client" has the meaning given in section 44 of ITEPA, and cognate expressions shall be construed accordingly;";

(c) after the definition of "employment" insert—

""employment intermediary" has the meaning given in section 716B(2) of ITEPA;"; and

(d) after the definition of "tribunal"(**7**) insert—

""United Kingdom continental shelf" means the area designated under section 1(7) of the Continental Shelf Act 1964(**8**).".

(3) After regulation 84D insert—

"Employment Intermediaries: return of information relating to agency workers for whom they have not operated PAYE

Specified employment intermediaries

84E. An employment intermediary is a specified employment intermediary if at any time during a tax quarter—

(a) the employment intermediary is an agency;

(b) more than one individual provides services to a client under or in consequence of a contract between the employment intermediary and one or more clients;

(c) those services are not provided exclusively on the United Kingdom continental shelf; and

(d) the employment intermediary makes one or more payments in respect of, or connected with, the services provided by one or more individuals that—

(i) is required by regulation 67B to be included in a return delivered to HMRC by the employment intermediary when the payment is made but has not been ("a reporting failure"); or

(ii) is not required by regulation 67B to be included in a return delivered to HMRC by the employment intermediary when the payment is made because the individual is not an employee or treated as an employee under regulation 10 ("no reporting requirement").

Returns by specified employment intermediaries

84F.—(1) A specified employment intermediary must, for each tax quarter, provide to HMRC the information specified in regulation 84G no later than the end of the tax month following that quarter.

(**6**) ITEPA has the meaning given in regulation 2(1) of the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682). Section 44 was substituted by section 16 of the Finance Act 2014.

(**7**) The definition of tribunal was inserted by paragraph 93 of Schedule 2 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order (S.I. 2009/56).

(**8**) 1964 c. 29. Section 1(7) was amended by paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c. 23) and section 103 of the Energy Act 2011 (c.16).