

**2014 No. 992 (C. 45)**

**INCOME TAX**

**SOCIAL SECURITY**

**The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments), Appointed Days and Consequential Provisions Order 2014**

<i>Made</i> - - - -	<i>10th April 2014</i>
<i>Laid before the House of Commons</i>	<i>14th April 2014</i>
<i>Coming into force</i> - -	<i>6th May 2014</i>

The Treasury make the following Order in exercise of the powers conferred by section 104(3), (4), (5), (6) and (7) of the Finance Act 2009<sup>(a)</sup>:

**Citation, commencement and effect**

1.—(1) This Order may be cited as the Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments), Appointed Days and Consequential Provisions Order 2014 and comes into force on 6th May 2014.

(2) This Order has effect in relation to payments which are due and payable in respect of the tax year 2014-15 and subsequent tax years.

**Interpretation**

2. In this Order—

“Contributions Regulations” means the Social Security (Contributions) Regulations 2001<sup>(b)</sup>;

“HMRC” means Her Majesty’s Revenue and Customs;

“PAYE Regulations” means the Income Tax (Pay As You Earn) Regulations 2003<sup>(c)</sup>;

“tax year” means the period which begins on 6th April of one year and which ends on the following 5th April.

**Appointed Days**

3.—(1) 6th May 2014 is the day appointed for the coming into force of section 101 of the Finance Act 2009 (late payment interest on sums due to HMRC) for the purposes of—

(a) any PAYE amount payable by a PAYE employer to HMRC,

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(a) 2009 c. 10.

(b) S.I. 2001/1004; relevant amending instruments are S.I. 2004/770, 2007/1056 and 2008/636.

(c) S.I. 2003/2682; relevant amending instruments are S.I. 2004/851, 2007/1077, 2008/782, 2009/588, 2012/822 and 2013/521.

- (b) any Class 1 contributions amount payable by an employer to HMRC, and
- (c) any CIS amount payable by a contractor to HMRC,

which is due and payable for the tax year 2014-15 or for any subsequent tax year.

(2) 6th May 2014 is the day appointed for the coming into force of section 102 of the Finance Act 2009 (repayment interest on sums to be paid by HMRC) for the purposes of—

- (a) any PAYE amount repayable by HMRC to a PAYE employer,
- (b) any Class 1 contributions amount which fall to be repaid by HMRC to an employer, and
- (c) any CIS amount which falls to be repaid by HMRC to a contractor,

which was paid to HMRC for the tax year 2014-15 or any subsequent tax year.

(3) In this article—

“CIS amount” means any amount deducted by a contractor from a contract payment in accordance with section 61 of the Finance Act 2004 (deductions on account of tax from contract payments)(a);

“Class 1 contributions amount” means earnings-related contributions payable under the Social Security Contributions and Benefits Act 1992(b) or the Social Security (Contributions and Benefits) (Northern Ireland) Act 1992(c), by or in respect of an employed earner in respect of employed earner’s employment;

“contractor” has the meaning given by section 57 of the Finance Act 2004 (contractors);

“employer” means the secondary contributor in accordance with paragraph 1(2) of Schedule 4 to the Contributions Regulations (interpretation);

“employed earner” and “employed earner’s employment” have the same meaning as in paragraph 1(2) of Schedule 4 to the Contributions Regulations;

“PAYE amount” means any tax which a person making payments of, or on account of, PAYE income within section 683(1) of the Income Tax (Earnings and Pensions) Act 2003 (PAYE income)(d), is required to deduct from those payments irrespective of whether those amounts are deducted or not including tax in respect of which a direction notice has been issued under regulation 72(5A) (recovery from employee of tax not deducted by employer) or regulation 81(4) (employee liability if tax unpaid after regulation 80 determination) of the PAYE Regulations(e);

“PAYE employer” includes—

- (a) a Real Time Information employer within regulation 2A (Real Time Information employers) of the PAYE Regulations(f);
- (b) a Real Time Information pension provider within regulation 2B (Real Time Information pension payers) of the PAYE Regulations(g);
- (c) any agency which is treated as an employer for the purposes of the PAYE Regulations by regulation 10 (application to agencies and agency workers) of those Regulations(h);
- (d) any other payer which is treated as an employer for the purposes of the PAYE Regulations by regulation 12 (application to other payers and payees) of those Regulations(i); and

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(a) 2004 c. 12.

(b) 1992 c. 4.

(c) 1992 c. 7.

(d) 2003 c. 1. Section 684 has been relevantly amended by section 145 of the Finance Act 2003 (c. 14); section 94(3) of the Finance Act 2006 (c. 25); paragraphs 1 to 7 of Schedule 58 to the Finance Act 2009; section 85 of the Finance Act 2011 (c. 11) and by section 225 of, and paragraph 5 of Schedule 1 to, the Finance Act 2012 (c. 14).

(e) Regulation 72(5A) was inserted by regulation 3 of S.I. 2004/851 and regulation 81 has been amended by regulation 5 of S.I. 2004/851.

(f) Regulation 2A was inserted by regulation 4 of S.I. 2012/822 and amended by regulation 14 of S.I. 2013/521.

(g) Regulation 2B was inserted by regulation 4 of S.I. 2012/822 and amended by regulation 15 of S.I. 2013/521.

(h) Regulation 10 was amended by regulation 7 of S.I. 2013/521.

(i) Regulation 12 was amended by regulation 7 of S.I. 2013/521.

- (e) an employee to whom a direction notice under regulation 72(5A) or regulation 81(4) of the PAYE Regulations has been issued.

### **Consequential provisions**

#### **4. In the Taxes Management Act 1970(a)—**

- (a) in section 30(2)(a) (recovery of overpayment of tax, etc)(b) after “etc” insert “or section 102 of the Finance Act 2009 (repayment interest)”; and
- (b) in section 70A(2) (payments by cheque)(c)—
  - (i) omit the “and” after paragraph (a); and
  - (ii) after paragraph (b) insert—
    - “; and
  - (c) section 102 of the Finance Act 2009 (repayment interest).”.

#### **5. In section 162(4)(a) of the Social Security Administration Act 1992 (destination of contributions)(d)—**

- (a) after “Benefits Act” insert “or section 101 of the Finance Act 2009”; and
- (b) for “that Act” substitute “the Contributions and Benefits Act”.

#### **6. In section 142(4)(a) of the Social Security Administration (Northern Ireland) Act 1992 (destination of contributions)(e) after “Benefits Act”, in the first place it occurs, insert “or section 101 of the Finance Act 2009”.**

#### **7. In section 684 of the Income Tax (Earnings and Pensions) Act 2003 (PAYE regulations)—**

- (a) in subsection (2) in item 6(c) after “such interest” insert “or interest under section 101 of FA 2009”(f); and
- (b) in subsection (4) after “the above list” insert “or by section 101 of FA 2009, in connection with sums due to the Commissioners under the PAYE Regulations(g).”.

#### **8.—(1) In section 749 of the Income Tax (Trading and Other Income) Act 2005 (interest paid under repayment supplements)(h)—**

- (a) omit the “or” after paragraph (a);
- (b) after paragraph (b) insert—
  - “; or
- (c) section 102 of FA 2009 (repayment interest)(i).”; and
- (c) in the heading for “Interest” substitute “Repayment interest, and interest.”.

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(a) 1970 c 9.

(b) Section 30 has been substituted by section 149(1) of the Finance Act 1982 (c. 39) and subsection (2)(a) has been further substituted by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1).

(c) Section 70A was inserted by paragraph 22 of Schedule 19 to the Finance Act 1994 (c. 9) and amended by section 95(7) of the Finance Act 2007 (c. 11).

(d) 1992 c. 5. Section 162(4)(a) has been amended by paragraph 19 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19).

(e) 1992 c. 8. Section 142(4)(a) has been amended by paragraph 34(3) of Schedule 1 to the National Insurance Contributions Act 2002.

(f) The term “FA 2009” is defined by Part 1 of Schedule 1 to the Income Tax (Earnings and Pensions) Act 2003 (“ITEPA”) as meaning the Finance Act 2009.

(g) The term “the Commissioners” is defined in section 684(7C) of ITEPA as meaning the Commissioners for Her Majesty’s Revenue and Customs. Section 684(7C) was inserted by section 145 of the Finance Act 2003 and amended by paragraph 7 of Schedule 58 to the Finance Act 2009.

(h) 2005 c. 5.

(i) The term “FA 2009” is defined by Part 1 of Schedule 4 to the Income Tax (Trading and Other Income Act) 2005 as meaning the Finance Act 2009.

(2) In consequence of paragraph (1), in section 369(3)(e) of that Act (charge to tax on interest)(a) before “interest arising” insert “repayment interest,”.

**9.**—(1) The PAYE Regulations are amended as follows.

(2) In regulation 2 (interpretation) omit the definition of “reckonable date”.

(3) In regulation 72 (recovery from employee of tax not deducted by employer)—

(a) in paragraph (7) for “regulation 82 (interest on tax overdue)” substitute “section 101 of the Finance Act 2009”; and

(b) omit paragraph (8).

(4) In regulation 81 (employee liability if tax unpaid after regulation 80 determination)(b)—

(a) in paragraph (6) for “regulation 82 (interest on tax overdue)” substitute “section 101 of the Finance Act 2009”; and

(b) omit paragraph (7).

(5) Omit regulations 82 (interest on overdue tax)(c) and 83 (interest on tax overpaid).

(6) In regulation 84 (recovery of tax and interest)(d)—

(a) in paragraph (1)(a) for “, 79(2)(b) or 82(2)” substitute “or 79(2)(b)”; and

(b) in the second entry in column 1 of Table 4 in paragraph (3)—

(i) after “77(6)” insert “and”; and

(ii) omit “and 82(2)”.

(7) In the list in regulation 218(4) (certificate that sum due)(e) omit the entry relating to regulation 82.

(8) In the list in regulation 219(2) (payment by cheque)(f) omit the entries relating to regulations 82 and 83(2)(b).

**10.**—(1) Schedule 4 to the Contributions Regulations (provisions derived from the income tax acts and the income tax (Pay As You Earn) Regulations 2003)(g) is amended as follows.

(2) In paragraph 17 (interest on overdue earnings-related contributions or Class 1B contributions)(h)—

(a) in sub-paragraph (1) omit paragraph (a); and

(b) in sub-paragraph (3) omit paragraph (b)(i).

(3) In paragraph 17A(1) (application of paragraphs 16 and 17 in cases of wilful failure to pay)(i) after “paragraphs 16 and 17” insert “, and section 101 of the Finance Act 2009, in respect of an earnings-related contribution,”.

(4) In paragraph 18 (payment of interest on repaid earnings-related contributions or Class 1B contributions)—

(a) in sub-paragraph (3) omit “an earnings-related contribution or”; and

(b) in sub-paragraph (4)—

(i) omit paragraph (a)(i) and the “or” at the end of it; and

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(a) Section 369(3)(e) has been amended by section 69(1) and (2) of the Finance Act 2011 and paragraph 53(2) of Schedule 39 to the Finance Act 2012.

(b) Regulation 81 has been amended but the amendments are not relevant to these Regulations.

(c) Regulation 82 has been amended by regulation 16 of S.I. 2007/1077, regulation 10 of S.I. 2008/782, regulation 39 of S.I. 2012/822 and regulation 33 of S.I. 2013/521.

(d) Regulation 84 has been amended by regulation 11 of S.I. 2008/782 and regulation 40 of S.I. 2012/822.

(e) Regulation 218 has been amended but the amendments are not relevant to these Regulations.

(f) Regulation 219 has been amended but the amendment is not relevant to these Regulations.

(g) S.I. 2001/2004; relevant amending instruments are S.I. 2004/770, 2007/1056 and 2008/636.

(h) Paragraph 17 of Schedule 4 has been amended by regulation 32 of S.I. 2004/770, regulation 8 of S.I. 2007/1056 and regulation 6 of S.I. 2008/636.

(i) Paragraph 17A was inserted by regulation 32 of S.I. 2004/770.

(ii) in paragraph (b) omit “earnings-related contribution or”.

(5) In paragraph 20(1) (remission of interest for official error) after “with paragraph 17” insert “, or section 101 of the Finance Act 2009 in relation to any earnings-related contribution,”.

**11.** The Income Tax (Construction Industry Scheme) Regulations 2005(a) are amended as follows—

- (a) omit regulation 14 (interest on amounts overdue);
- (b) omit regulation 15 (interest on amounts overpaid);
- (c) omit regulation 56(4) (application by the Commissioners for Her Majesty’s Revenue and Customs of sums deducted under section 61); and
- (d) in regulation 58(2) (payment by cheque) omit “regulation 14 interest on amounts overdue”.

*Mark Lancaster  
Anne Milton*

10th April 2014

Two of the Commissioners of Her Majesty’s Treasury

### **EXPLANATORY NOTE**

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

This Order comes into force on 6th May 2014 and has effect in relation to amounts which are due and payable for the tax year 2014-15 and subsequent tax year. As a consequence this Order applies to payments which are due and payable on or after 19th May 2014.

Article 3 of this Order appoints 6th May 2014 as the date on which the interest regimes contained in sections 101 and 102 of the Finance Act 2009 (c. 10) come into force. As from this date those provisions will apply for the purposes of a) income tax deducted at source under the Income Tax (Pay As You Earn) Regulations 2003 (S.I. 2003/2682), b) earnings-related contributions and c) amounts deducted under the Construction Industry Scheme in relation to amounts which are due and payable for the tax year 2014-15 or subsequent tax years.

Articles 4 to 11 make consequential amendments to various Acts and Regulations to reflect the fact that tax due on income tax deducted at source, earnings-related contributions and amounts deducted under the Construction Industry Scheme are now within the harmonised interest regimes in sections 101 to 103 of the Finance Act 2009.

A Tax Information and Impact Note has not been prepared for this Instrument as it gives effect to previously announced policy and it is an appointed day order.

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(a) S.I. 2005/2045.





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