



STATUTORY INSTRUMENTS.

S.I. No. 658 of 2011

UNIVERSAL SOCIAL CHARGE REGULATIONS 2011

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UNIVERSAL SOCIAL CHARGE REGULATIONS 2011

The Revenue Commissioners, in exercise of the powers conferred on them by section 531AAB of the Taxes Consolidation Act 1997 (No. 39 of 1997), hereby make the following regulations:

PART 1

GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the Universal Social Charge Regulations 2011.

(2) These Regulations shall come into operation as respects any payment of relevant emoluments made or to be made for the USC year 2012 and subsequent USC years.

Interpretation

2. (1) In these Regulations—

“the Act” means the Taxes Consolidation Act 1997 (No. 39 of 1997);

“certificate of rate cut-off points”, in relation to an employee, means the certificate sent to an employer in respect of the employee for a USC year under Regulation 8(2) certifying—

(a) the rate cut-off points appropriate to the employee, and

(b) where appropriate, details of total relevant emoluments paid and total USC deducted in respect of the employee’s previous employment or employments for the USC year;

“cessation certificate” means a certificate sent by an employer to the Revenue Commissioners under Regulation 19 or 20, as the case may be;

“Collector-General” means the Collector-General appointed under section 851 of the Act;

“cumulative rate cut-off points”, in relation to an employee, any date and any rate, means, in respect of each rate, the sum of the rate cut-off points for that rate applicable to the employee and applied to each payment of relevant emoluments made to that employee from the beginning of the USC year up to and including such date;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 23rd December, 2011.*

“cumulative relevant emoluments”, in relation to an employee and any date, means the total of all payments of relevant emoluments made to the employee from the beginning of the USC year up to and including such date;

“cumulative USC”, in relation to an employee and any date, means the total of USC due at each of the rates from the beginning of the USC year up to and including that date;

“electronic means” has the same meaning as in section 917EA of the Act;

“employee” means any person in receipt of emoluments;

“employer” means any person paying emoluments;

“notional payment”, in relation to an employee who is in receipt of relevant emoluments in the form of—

- (a) perquisites and profits that are chargeable to USC by virtue of those perquisites and profits being chargeable to income tax under section 112 of the Act, or
- (b) the benefit of the private use of a car or a van that is chargeable to USC by virtue of the benefit of that use being chargeable to income tax under section 121 or 121A, respectively, of the Act,

means an amount equal to the amount that, on the basis of the best estimate that can reasonably be made, is the amount of relevant emoluments likely to be chargeable to USC in respect of the emoluments referred to in subparagraph (a) or (b);

“PAYE Regulations” means the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001);

“personal public service number” has the same meaning as in section 262 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005);

“principal employer” shall be construed in accordance with Regulation 3;

“rate” means any of the rates of USC specified in section 531AN of the Act;

“rate cut-off point”, in relation to an employee and a rate, means the amount in respect of such employee and such rate determined by the Revenue Commissioners and included on the certificate of rate cut-off points;

“relevant emoluments” shall be construed in accordance with paragraph (a) of the Table to section 531AM(1) of the Act;

“relevant income” shall be construed in accordance with paragraph (b) of the Table to section 531AM(1) of the Act;

“return filing date” means—

(a) 14 days from the end of a month, or

(b) in the case of a remittance made by electronic means as required by the Revenue Commissioners, 23 days from the end of a month;

“Revenue officer” means an officer of the Revenue Commissioners;

“universal social charge” has the meaning assigned to it by section 531AM of the Act;

“USC” means universal social charge;

“USC year” means a year of assessment for the purposes of the Income Tax Acts.

(2) In these Regulations—

(a) references to the payment of relevant emoluments include references to notional payments in respect of relevant emoluments,

(b) references to USC deducted or to be deducted, or to a requirement to deduct USC from the payment of relevant emoluments, include references to USC remitted or to be remitted, or a requirement to remit USC in respect of notional payments,

(c) in relation to the period in respect of which relevant emoluments are paid, references to a week include references to a fortnight, 4 weeks, a month or any other longer interval or irregular interval at which relevant emoluments are paid, and

(d) references to any document, including a certificate, notice, notification, form or return, authorised or required to be sent or given under these Regulations, include references to such a document otherwise made available or caused to be so sent, given or made available.

Intermediate employers

3. (1) Where an employee works under the general control and management of a person (in these Regulations referred to as the “principal employer”) who is not his or her immediate employer, that person shall be deemed to be the employer of the employee for the purposes of these Regulations, and the immediate employer shall give the principal employer such particulars of the employee's relevant emoluments as may be necessary to enable the principal employer to comply with these Regulations.

(2) If the employee's relevant emoluments are actually paid to him or her by the immediate employer—

(a) the immediate employer shall be notified by the principal employer of the amount of USC to be deducted or repaid when the relevant

emoluments are paid to the employee, and shall deduct or repay accordingly the amount so notified, and

- (b) the principal employer shall make a corresponding deduction or addition on making to the immediate employer the payment out of which the relevant emoluments are to be paid.

Liability for payment of deduction and entitlement to payment of repayment

4. Persons who are required to make any deduction or repayment of USC under these Regulations shall, in the case of a deduction (whether or not made), be accountable for the amount of USC, and be liable to pay that amount, to the Revenue Commissioners and shall, in the case of a repayment, be entitled, if it has been made, to be paid it, or given credit for it, by the Revenue Commissioners.

Delegation of functions of Revenue Commissioners

5. Any act to be performed or function to be discharged by the Revenue Commissioners that is authorised or required by these Regulations may be performed or discharged by any one or more of their officers acting under their authority.

Service by post or electronic means

6. Any document, including a certificate, notice, notification, form or return, authorised or required to be sent or given under these Regulations may be sent by post or by electronic means.

Combined documents for USC and income tax

7. Any document, including a certificate, notice, notification, form or return relating to USC may be combined with such a document relating to income tax and any document so combined may be modified by the Revenue Commissioners accordingly in relation to its application to USC and income tax or to USC only or to income tax only, as the case may be.

PART 2

RATE CUT-OFF POINTS

Determination of rate cut-off points

8. (1) Subject to paragraph (2), the Revenue Commissioners shall cause the rate cut-off points appropriate to an employee for any USC year to be determined.

(2) Where the Revenue Commissioners have reason to believe that the relevant emoluments of an employee for a USC year will not exceed the amount specified in section 531AM(2) of the Act, no rate cut-off points appropriate to the employee for that USC year shall be determined.

(3) Any of the following matters may be taken into account in determining a rate cut-off point or points for an employee, namely—

- (a) the relevant emoluments of the employee for the USC year, or any period within that year, whether for one employment or for more than one employment,
- (b) the relevant income of the employee for the USC year,
- (c) any request made by the employee under Regulation 10(4) in relation to the allocation of the rate cut-off points to different employments,
- (d) the age of the employee,
- (e) the full eligibility of the employee for services under Part IV of the Health Act 1970 (No. 1 of 1970), by virtue of sections 45 and 45A of that Act or Council Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004¹ on the coordination of social security systems,
- (f) any reliefs from USC to which the employee is entitled for the USC year,
- (g) any USC overpaid for any previous USC year that has not been repaid,
- (h) any USC remaining unpaid for any previous USC year that is not otherwise recovered,
- (i) such other adjustments as may be necessary to secure that, so far as possible, USC in respect of the employee's relevant emoluments for the USC year to which the rate cut-off point or points relate shall be deducted from the relevant emoluments paid in that USC year.

Transitional arrangements concerning determination of rate cut-off points in absence of certificate of rate cut-off points

9. (1) In this Regulation “certificate of tax credits and standard rate cut-off point” has the same meaning as in the PAYE Regulations.

(2) This Regulation applies where—

- (a) in relation to an employee, the employer does not have a certificate of rate cut-off points in respect of the employee, and
- (b) in relation to the employee, the employer has a certificate of tax credits and standard rate cut-off point that has effect for the USC year 2012.

(3) Where this Regulation applies the Revenue Commissioners shall be treated as having—

- (a) determined the rate cut-off points applicable to the employee to be the amounts specified in column (1) of the Table to section 531AN

¹OJ No. L166 30.4.2004, p.1

of the Act and the rates applicable to those cut-off points to be the corresponding rates specified in column (2) of that Table,

- (b) included those amounts and rates on a certificate of rate cut-off points, together with their weekly equivalents, and
- (c) sent the certificate of rate cut-off points to the employer of the employee.

(4) Where this Regulation applies the employer of the employee shall on the payment of any relevant emoluments deduct USC from those emoluments—

- (a) in accordance with Regulation 15, where the certificate of tax credits and standard rate cut-off point indicates that Regulation 17 of the PAYE Regulations applies, or
- (b) in accordance with Regulation 21, where the certificate of tax credits and standard rate cut-off point indicates that Regulation 22 of the PAYE Regulations applies.

(5) Where—

- (a) this Regulation applies, and
- (b) in relation to an employee and the USC year 2012, a certificate of rate cut-off points appropriate to the employee has effect,

the employer shall disregard the certificate of rate cut-off points referred to in paragraph (3) and, instead, use the certificate sent to that employer under Regulation 10(2).

(6) This Regulation shall not apply or have effect on or after 31 December 2011.

Notification of determination of rate cut-off points

10. (1) After the rate cut-off points appropriate to an employee for any USC year have been determined in accordance with Regulation 8, the Revenue Commissioners shall send notice of the determination to the employee.

(2) The Revenue Commissioners shall send a certificate of rate cut-off points appropriate to an employee to the employer of the employee and, except where these Regulations otherwise provide, the details contained in the certificate shall be taken into account by the employer for the purposes of calculating the cumulative USC in respect of the cumulative relevant emoluments of the employee in accordance with Regulation 15.

(3) Where it appears to the Revenue Commissioners that an employee has more than one employment, the Revenue Commissioners shall, in respect of each employment, send to the employer a separate certificate of rate cut-off points showing the rate cut-off points applicable to the particular employment, but the aggregate amount of the rate cut-off points on each such certificate

shall not exceed the total amount of rate cut-off points of the employee for the USC year.

(4) Before a determination for a USC year has been made in accordance with Regulation 8, an employee may request that a portion of the rate cut-off points be allocated to different employments in such a manner as the employee directs and where any such request is made, any determination shall take that request into account without prejudice to the other matters to be taken into account under Regulation 8.

Amendment of rate cut-off points

11. (1) If a determination of rate cut-off points under Regulation 8 is found not to be appropriate because the actual circumstances are different from the circumstances by reference to which the determination was made, the Revenue Commissioners may, and if so required by the employee shall, by reference to the actual circumstances, cause the previous determination to be amended.

(2) If an employee is aggrieved by a determination of rate cut-off points under Regulation 8, or by an amended determination under paragraph (1), he or she may give notice of his or her objection, stating the grounds of the objection, not later than 31 December in the USC year to which the determination relates.

(3) The Revenue Commissioners shall consider the employee's objection and either—

- (a) send an amended determination of rate cut-off points to the employee, or
- (b) notify the employee of their decision not to amend the determination of rate cut-off points.

(4) The employee concerned may appeal—

- (a) an amended determination sent to the employee under paragraph (3)(a), or
- (b) a decision of the Revenue Commissioners under paragraph (3)(b) not to amend a determination of rate cut-off points,

within 21 days of the date on which the amended determination is so sent, or as the case may be, the decision is so notified to the employee, and the appeal may be made to the Appeal Commissioners and may be heard and determined by one Appeal Commissioner.

(5) The Appeal Commissioners shall determine the rate cut-off points having regard to the matters set out in Regulation 8(3) and, subject to paragraph (1), their determination shall be final.

- (6) (a) Where a determination of rate cut-off points under Regulation 8 is amended pursuant to paragraph (1) or (3)(a), as the case may be, the Revenue Commissioners shall send to the employer a new certificate

of rate cut-off points that includes the amended determination and the employer shall then use the new certificate.

- (b) The Revenue Commissioners shall send a notice of the amended determination referred to in subparagraph (a) to the employee not later than the date on which a new certificate of rate cut-off points is sent to the employer in accordance with that subparagraph.

Application of determinations of rate cut-off points for subsequent USC years

12. (1) A determination of the rate cut-off points appropriate to an employee for any USC year under Regulation 8, or an amended determination under Regulation 11, shall have effect for each subsequent USC year as if a separate determination had been made for each such year and the notice of determination and the certificate of rate cut-off points shall state that the rate cut-off points indicated on the notice and certificate shall have effect for that USC year and for each subsequent USC year.

(2) Paragraph (1) shall not preclude an employee from requesting a separate determination of rate cut-off points under Regulation 8 for any of the USC years after the first USC year and, where such a separate determination is made, a notice of such determination shall be sent to that employee.

(3) Regulation 11 shall, with the necessary modification, apply in relation to each USC year after the first USC year included in a notice or certificate sent under paragraph (1) as it applies in relation to the first USC year.

PART 3

DEDUCTION AND REPAYMENT OF USC

General provision for deductions and repayments

13. (1) Subject to paragraph (2), on payment of relevant emoluments, deductions or repayments of USC shall be made subject to, and in accordance with, the subsequent provisions of this Part.

(2) Paragraph (1) shall not apply where Regulation 8(2) applies.

Deduction of USC in respect of notional payments

14. (1) An employer shall deduct USC in respect of a notional payment from any payment of relevant emoluments actually made by the employer to or on behalf of an employee on—

- (a) the day the notional payment is made, or
- (b) if no actual payment of relevant emoluments is made to the employee on that day, the next pay day following the day on which the notional payment is made.

(2) Where, by reason of an insufficiency of payments of relevant emoluments actually made to or on behalf of the employee, the employer is unable to deduct

the amount (or full amount) of USC required to be deducted by virtue of paragraph (1), the employer shall be liable to remit that amount of USC to the Collector-General as if the amount to be remitted had been deducted in accordance with this Regulation.

(3) This paragraph applies to relevant emoluments being—

- (a) the benefit of the private use of a car or a van which is treated for the purposes of income tax as a benefit in kind by virtue of section 121 or 121A, respectively, of the Act,
- (b) the benefit arising from a preferential loan which is treated for the purposes of income tax as a perquisite for the purposes of section 112 of the Act by virtue of section 122 of the Act, or
- (c) the benefit arising from an asset which belongs to the employer and the valuation of which is for the purposes of income tax determined in accordance with section 119(4) of the Act.

(4) Where a notional payment for a USC year is in respect of relevant emoluments to which paragraph (3) applies, the amount of that notional payment shall be apportioned over the period for which the benefit is available in that USC year and the employer shall deduct USC by reference to the part of that notional payment apportioned to each week in the period for which the benefit is available in that USC year.

Calculation and making of deduction or repayment where certificate of rate cut-off points held

15. (1) On any payment of relevant emoluments to or on behalf of an employee in respect of whom the employer holds a certificate of rate cut-off points, the employer, except where these Regulations otherwise provide, shall ascertain—

- (a) the cumulative relevant emoluments of that employee at the date of payment, and
- (b) by reference to the certificate of rate cut-off points in respect of that employee, the cumulative rate cut-off point for each rate corresponding to the date of payment,

and, by reference to the amounts referred to in subparagraph (a) and each of the amounts referred to in subparagraph (b), determine the amount of the cumulative USC in respect of the cumulative relevant emoluments in accordance with the formula in paragraph (2).

(2) The cumulative USC shall be the amount represented by A in the formula—

$$A = (B \times 2\%) + (C \times 4\%) + (D \times 7\%)$$

where—

B is the amount (that may be nil) of the cumulative relevant emoluments chargeable to USC at the rate of 2% up to and including the rate cut-off point for that rate,

C is the amount (that may be nil) of the cumulative relevant emoluments chargeable to USC at the rate of 4% up to and including the rate cut-off point for that rate, and

D is the amount (that may be nil) of the cumulative relevant emoluments that exceeds the rate cut-off point referred to in the meaning of C.

(3) If the cumulative USC determined in accordance with paragraph (2) exceeds the cumulative USC corresponding to the employee's cumulative relevant emoluments at the date of the last preceding payment of relevant emoluments (in this Regulation referred to as the “previous cumulative USC”), the employer shall deduct the excess from the relevant emoluments on making the payment of relevant emoluments.

(4) If the cumulative USC determined in accordance with paragraph (2) is less than the previous cumulative USC, the employer shall repay the difference to the employee on making the payment of relevant emoluments.

(5) If the cumulative USC determined in accordance with paragraph (2) is equal to the previous cumulative USC, the employer shall neither deduct nor repay USC when the payment of relevant emoluments is made.

(6) Where the payment of relevant emoluments is the first such payment in the USC year, the employer shall deduct the cumulative USC as determined in accordance with paragraph (2) from the relevant emoluments on making the payment of those relevant emoluments and paragraphs (3), (4) and (5) shall not apply.

(7) The employer shall record the following particulars in relation to every payment of relevant emoluments that the employer makes to or on behalf of the employee:

(a) the date of the payment;

(b) the amount of the relevant emoluments;

(c) in relation to the date of payment—

(i) the cumulative relevant emoluments,

(ii) the cumulative USC, that is, the amount represented by A in the formula in paragraph (2), and

(iii) the amount of USC, if any, deducted or repaid on making the payment of relevant emoluments.

Subsidiary relevant emoluments of employee

16. (1) If—

- (a) an employer makes a payment of relevant emoluments in respect of overtime or other extra earnings to or on behalf of an employee whose main relevant emoluments are paid weekly, and
- (b) that payment is made at an earlier date in the week than the date on which the main relevant emoluments are paid,

the employer shall repay no USC to the employee on the occasion of that payment, notwithstanding that USC may be repayable under Regulation 15.

(2) Regulations 15, 17, 21 and 22 shall have effect as if the payment of relevant emoluments referred to in paragraph (1)(a) is made on the same day in that week as the day on which the main relevant emoluments are paid.

Deduction where additional pay day in USC year

17. (1) This Regulation applies where—

- (a) an employer paying relevant emoluments has received a certificate of rate cut-off points in respect of an employee from the Revenue Commissioners,
- (b) relevant emoluments are paid on 31 December in any USC year or, if that year is a leap year, on 30 or 31 December in that year, to or on behalf of an employee who is paid weekly, and
- (c) relevant emoluments are paid to or on behalf of an employee where the Revenue Commissioners send notice to the employer of that employee directing that this Regulation shall apply.

(2) Subject to paragraph (3), where this Regulation applies, Regulation 15 shall apply to payments of relevant emoluments to which this Regulation applies as if the reference in paragraph (1)(b) of Regulation 15 to the “date of payment” was a reference to the immediately preceding date on which relevant emoluments were paid.

(3) Where this Regulation and Regulation 22 apply, on making any payment of relevant emoluments to which this Regulation applies, the employer shall deduct USC from those emoluments, without regard to rate cut-off points, at the highest rate indicated on the certificate of rate cut-off points sent under Regulation 10(2) in respect of the employee referred to in paragraph (1).

(4) On making any such payment referred to in paragraph (1), the employer shall record—

- (a) the date of the payment,
- (b) the amount of the relevant emoluments,

- (c) the rate cut-off points where a certificate of rate cut-off points is held,
- (d) the cumulative relevant emoluments at the date of payment where the employee has not ceased to be employed by that employer,
- (e) the rate applied to the relevant emoluments, and
- (f) the amount of USC (if any) deducted on making the payment.

Arrears of pay

18. (1) This Regulation applies to payments of relevant emoluments made to or on behalf of an employee after he or she has ceased to be employed by the person making those payments.

(2) Where this Regulation applies, on making any such payment of relevant emoluments, the employer shall—

- (a) in the case of an employee—
 - (i) who ceased to be employed by that employer in the same USC year in which those emoluments are paid, and
 - (ii) in respect of whom the employer holds a certificate of rate cut-off points,

deduct USC by reference to the rate cut-off points that would have applied to the payment if those emoluments had been paid on the date the employee ceased to be employed by the employer and Regulation 15 had applied,

or

- (b) in the case of an employee who ceased to be employed by the employer—
 - (i) in the same USC year in which those emoluments are paid and in respect of whom no certificate of rate cut-off points is held by the employer, or
 - (ii) in any USC year before the USC year in which the payment is made,

deduct USC in accordance with Regulation 21(1).

(3) Where an employer pays such relevant emoluments as are referred to in paragraph (1) and details of those emoluments were not included on the cessation certificate sent to the Revenue Commissioners in accordance with Regulation 19(1), the employer shall immediately send to the Revenue Commissioners a return, in a form approved by the Revenue Commissioners, showing—

- (a) the date of the payment,
- (b) the amount of the relevant emoluments,

- (c) the amount of USC (if any) deducted on making the payment,
- (d) the date on which the employee ceased to be employed, and
- (e) any other particulars in relation to USC that are indicated by such form or by these Regulations as being required to be entered on that form.

(4) Where this Regulation applies, on making any such payment, the employer shall record—

- (a) the date of the payment,
- (b) the amount of the relevant emoluments,
- (c) the rate cut-off points where a certificate of rate cut-off points is held,
- (d) the cumulative relevant emoluments at the date of payment that would have applied if the employee had continued to be employed by that employer,
- (e) the rate applied to the cumulative relevant emoluments,
- (f) the amount of USC (if any) deducted on making the payment, and
- (g) the amount of USC (if any) repaid on making the payment.

Change of employment where certificate of rate cut-off points held

19. (1) Where an employee, in respect of whom a certificate of rate cut-off of points is held by the employer, ceases employment with the employer, the employer shall, on the date the employment ceases, send to the Revenue Commissioners a certificate (in these Regulations referred to as a “cessation certificate”) in a form approved by the Revenue Commissioners on which that employer has entered the following particulars—

- (a) the name of the employee,
- (b) the date on which the employment ceased,
- (c) the week in respect of which the last payment of relevant emoluments was made,
- (d) if appropriate, the cumulative relevant emoluments at the date of such payment, and
- (e) any other particulars in relation to USC that are indicated by the certificate or by these Regulations as being required to be entered on that certificate.

(2) The employer shall make 3 copies of the cessation certificate and send them to the employee on the date the employment ceases.

(3) Subject to paragraph (7), immediately on commencing his or her next employment the employee shall send to the new employer 2 copies of the cessation certificate prepared by the former employer.

(4) (a) The new employer shall insert on one copy of the cessation certificate prepared by the former employer—

- (i) the address of the employee,
 - (ii) the date on which the new employment commenced,
 - (iii) the rate at which the relevant emoluments will be paid, and
 - (iv) the frequency with which the relevant emoluments will be paid,
- and immediately send that copy to the Revenue Commissioners.

(b) On receipt of the copy of the cessation certificate from the new employer, the Revenue Commissioners, in accordance with Regulation 8, shall cause a determination of the rate cut-off points appropriate to the employee to be made and shall send a certificate of rate cut-off points to the new employer.

(c) Pending the receipt of the certificate of rate cut-off points referred to in subparagraph (b), the new employer—

(i) shall record—

- (I) the date of payment of any relevant emoluments,
- (II) the gross amount of the relevant emoluments, and
- (III) as respects each date of payment of relevant emoluments, the rate cut-off points specified on the copies of the cessation certificate prepared by the former employer,

and

(ii) shall not deduct USC in accordance with Regulation 15 but, instead, shall deduct USC by reference to the aggregate of the relevant emoluments paid to or on behalf of the employee in that week by reference to the rate cut-off points specified on the cessation certificate prepared by the former employer.

(d) When the new employer receives the certificate of rate cut-off points referred to in subparagraph (b), he or she shall deduct USC in accordance with Regulation 15 and, for this purpose—

(i) the aggregate of the cumulative relevant emoluments paid to or on behalf of the employee referred to in paragraph (1) from the beginning of the USC year to the date of commencement of employment with the new employer specified on that certificate

and the relevant emoluments paid by that new employer before receipt of the certificate, and

- (ii) the aggregate of the cumulative USC deducted from the relevant emoluments referred to in clause (i) specified on the certificate and USC, if any, deducted by that new employer before receipt of the certificate,

shall be deemed, respectively, to be the cumulative relevant emoluments paid, and the cumulative USC deducted, by him or her.

(5) Where the copies of the cessation certificate prepared by the former employer show that the last payment of relevant emoluments was in the USC year preceding that in which the new employment commences, the new employer shall comply with paragraph (4) with the modification in relation to subparagraph (d) of that paragraph that he or she shall not record, or have regard to, the cumulative relevant emoluments and cumulative USC shown on the cessation certificate.

(6) Where the copies of the cessation certificate prepared by the former employer show that the last payment of relevant emoluments was in a USC year earlier than the year preceding that in which the new employment commences, the new employer shall comply with subparagraphs (a) and (c)(i) of paragraph (4) but—

- (a) shall, instead, deduct USC from each payment of relevant emoluments made by him or her to the employee, and keep records, as if those payments had been payments to which Regulation 21 applied, and
- (b) in relation to subparagraph (d) of paragraph (4), shall not record, or have regard to, the cumulative relevant emoluments and cumulative USC shown on the cessation certificate.

(7) If the new employer ceases to employ the employee before he or she receives the certificate of rate cut-off points referred to in subparagraph (b) of paragraph (4), he or she shall comply with paragraphs (1) and (2) as if that certificate of rate cut-off points had been sent to him or her, but, for the purposes of completing the cessation certificate—

- (a) the cumulative relevant emoluments shall be taken to be the aggregate of the cumulative relevant emoluments shown on the cessation certificate prepared by the former employer and the gross relevant emoluments paid by the new employer, and
- (b) where particulars of the cumulative USC are required, that USC shall be taken to be the aggregate of the cumulative USC shown on the cessation certificate prepared by the former employer and any USC deducted by the new employer.

(8) If the employee objects to the disclosure to the new employer of his or her cumulative relevant emoluments—

- (a) paragraph (3) shall not apply,
- (b) the employee shall provide 2 copies of the cessation certificate to the Revenue Commissioners before commencing his or her new employment, and
- (c) the Revenue Commissioners shall send to the new employer a certificate of rate cut-off points in respect of the employee not stating the employee's cumulative rate cut-off points or cumulative relevant emoluments and direct that Regulation 22 shall apply to all payments of relevant emoluments that the new employer makes to or on behalf of the employee.

(9) Retirement on pension shall not be treated as a cessation of employment for the purposes of this Regulation if the relevant emoluments are paid by the same employer both before and after the retirement.

Death of employee

20. (1) Where an employee dies while still employed by the employer, the employer shall immediately send to the Revenue Commissioners a cessation certificate on which the employer has entered the following details—

- (a) the name of the employee,
- (b) the date on which the employment ceased,
- (c) the week in respect of which the last payment of relevant emoluments was made,
- (d) if appropriate, the cumulative relevant emoluments at the date of such payment,
- (e) any other particulars in relation to USC that are indicated by the certificate or by these Regulations as being required to be entered on that certificate, and
- (f) if they are known to the employer the name and address of the personal representative of the employee.

(2) Where an employer makes any payment of relevant emoluments after the date of an employee's death in respect of his or her employment with the employer, the employer shall deduct or repay USC as if the deceased employee was still in the employer's employment at the date of the payment.

(3) If the amount of the relevant emoluments referred to in paragraph (2) and the date on which they will be paid are known at the time the cessation certificate is completed, the employer shall, when the cessation certificate referred to in paragraph (1) is sent to the Revenue Commissioners, notify the Revenue Commissioners of—

- (a) the amount of the relevant emoluments,

(b) the date on which they will be paid, and

(c) the amount of USC that will be deducted or repaid.

(4) Where paragraph (3) does not apply, the employer shall indicate on the cessation certificate that a further payment of relevant emoluments will be made.

Emergency basis of deduction

21. (1) Until an employer receives a certificate of rate cut-off points in respect of an employee from the Revenue Commissioners, the employer shall, on making any payment of relevant emoluments to or on behalf of the employee, deduct USC from all such payments at the highest rate specified in column (2) of the Table to section 531AN of the Act unless Regulation 19(4)(c)(ii) applies.

(2) The employer shall record the following particulars in relation to every payment of relevant emoluments referred to in paragraph (1):

(a) the date of payment;

(b) the amount of relevant emoluments;

(c) the rate at which USC was deducted;

(d) the amount of USC deducted on making the payment.

(3) On making any payments of relevant emoluments to or on behalf of an employee after a certificate of rate cut-off points in respect of the employee has been received by the employer, the employer shall comply with Regulation 15 and, for this purpose—

(a) any cumulative relevant emoluments notified to the employer in the certificate of rate cut-off points shall be treated as if they represented relevant emoluments paid by that employer, and

(b) the cumulative USC before the first payment of relevant emoluments is made to or on behalf of the employee after the certificate of rate cut-off points is received shall be taken to be the aggregate of any cumulative USC notified to the employer in that certificate and any USC that the employer was liable to deduct from the employee's relevant emoluments under paragraph (1).

(4) Where paragraph (1) applies in respect of an employee and the employer ceases to employ the employee before a certificate of rate cut-off points in respect of that employee is received, the employer shall immediately send a cessation certificate to the Revenue Commissioners on which the employer has entered the following particulars:

(a) the name of the employee;

- (b) the date on which the employment ceased;
- (c) the week in respect of which the last payment of relevant emoluments was made;
- (d) any other particulars in relation to USC that are indicated by the certificate or by these Regulations as being required to be entered on that certificate.

(5) The employer shall make 3 copies of the cessation certificate referred to in paragraph (4) and send them to the employee on the date the employment ceases.

(6) Immediately on commencing his or her next employment the employee shall send to the new employer 2 copies of the cessation certificate prepared by the former employer.

(7) On receipt of the copies of the cessation certificate the new employer—

- (a) shall comply with subparagraph (a) of paragraph (4) of Regulation 19, and
- (b) until the certificate of rate cut-off points is received from the Revenue Commissioners in respect of that employee, shall comply with the said paragraph (4).

(8) This Regulation shall not apply where—

- (a) the employee performs the duties of his or her employment wholly outside the State, or
- (b) the employee is outside the State and the relevant emoluments are paid outside the State.

Aggregation of relevant emoluments in non-cumulative cases

22. (1) Where, under these Regulations, USC is deductible by an employer otherwise than in accordance with Regulation 15, 17 or 21, the amount of USC to be deducted in any week in respect of an employee shall be calculated—

- (a) by reference to the relevant emoluments paid to or on behalf of the employee in that week,
- (b) by reference to the rate cut-off points on the certificate of rate cut-off points held by the employer in respect of that employee, and
- (c) without regard to any cumulative relevant emoluments, cumulative rate cut-off points or cumulative USC in respect of the USC year in which the relevant emoluments are paid.

(2) The employer shall record the following particulars in relation to every payment of relevant emoluments referred to in paragraph (1)(a):

- (a) the date of payment;
- (b) the amount of relevant emoluments;
- (c) the rate at which USC was deducted;
- (d) the amount of USC deducted on making the payment.

USC paid by employer to or for benefit of employee

23. Where an employer makes a payment to or for the benefit of an employee in respect of the employee's USC, the amount of the relevant emoluments which the employer pays to or on behalf of the employee shall be deemed for the purposes of deduction and repayment of USC under these Regulations to be such an amount as will include the amount assessable on the employee in respect of the payment made by the employer in respect of the employee's USC.

Repayment during sickness and unemployment

24. (1) If, owing to the absence from work through sickness or other similar cause, the employee is entitled to receive no relevant emoluments on the usual pay day, the employer shall, on application being made in person by the employee or his or her authorised representative, make such repayment of USC to the employee, as may be appropriate, having regard to his or her cumulative relevant emoluments at the date of the pay day concerned and the corresponding cumulative USC.

(2) If, owing to absence from work otherwise than as referred to in paragraph (1), the employee is entitled to receive no relevant emoluments on the usual pay day, the employer—

- (a) shall make any such repayment of USC to the employee as would be appropriate under paragraph (1) if the absence from work was due to sickness, or
- (b) not later than the first usual pay day on which no relevant emoluments will be payable to the employee, shall send to the Revenue Commissioners a notification of the employee's absence from work and of the employer's intention to make no repayment to the employee under subparagraph (a) together with a return containing the same particulars with respect to the employee as the employer would enter on a cessation certificate if the employment had ceased on the day on which relevant emoluments were last paid to or on behalf of the employee.

(3) Where the notification and return referred to in subparagraph (b) of paragraph (2) are sent within the period specified in that subparagraph, the employer shall be relieved of the liability to make any repayment under subparagraph (a) of that paragraph.

(4) The employer shall immediately notify the Revenue Commissioners when the employee returns to work and, for the purpose of deducting or repaying USC on the occasion of any subsequent payment of relevant emoluments to or

on behalf of the employee during the USC year, shall take into account the amount of any repayment which has been made under paragraph (5) of which he or she is notified by the Revenue Commissioners.

- (5) (a) The Revenue Commissioners shall make any repayment that may be appropriate at any date to a person who has ceased to be employed or with respect to whom a notification and return have been sent under paragraph (2)(b) and for this purpose shall have regard to the person's cumulative relevant emoluments at that date and the corresponding cumulative USC.
- (b) On applying for a repayment to be made under subparagraph (a), a person who has ceased to be employed shall provide the Revenue Commissioners with the copies of the cessation certificate referred to in Regulation 19(2) and such evidence of his or her unemployment as the Revenue Commissioners may require.

Particulars of USC deducted

25. (1) Within 46 days from the end of a USC year an employer shall give to every employee who is in the employer's employment on the last day of the USC year a certificate showing, in respect of that year—

- (a) the total amount of the relevant emoluments paid by the employer to or on behalf of the employee during that USC year,
 - (b) the employee's rate cut-off points where a certificate of rate cut-off points is held, and
 - (c) the total USC deducted (that may be nil) from those relevant emoluments.
- (2) (a) In the case of an employee taken into employment after the start of the USC year, the certificate referred to in paragraph (1) shall include any relevant emoluments paid to the employee by any previous employer during that USC year and any USC deducted from those relevant emoluments.
- (b) The relevant emoluments and USC deducted referred to in subparagraph (a) are those that the employer giving the certificate was required to take into account for the purposes of deducting or repaying USC in the case of the relevant emoluments paid by that employer.

PART 4

PAYMENT AND RECOVERY OF USC

Payment of USC by employer

26. (1) An employer shall remit to the Collector-General by the return filing date the amount given by the formula—

$$A + B - C$$

where,

A is all amounts of USC that the employer is liable under these Regulations to deduct from relevant emoluments paid by the employer during the relevant month,

B is any amount of USC that was not so deducted but which the employer was liable to remit in respect of that month to the Collector-General in respect of notional payments made by the employer in accordance with Regulation 14, and

C is any amounts that the employer was liable under these Regulations to repay during that month.

(2) Where a remittance made by electronic means referred to in subparagraph (b) of the definition of “return filing date” in Regulation 2(1) is not made within 23 days from the end of the relevant month, the period referred to in subparagraph (a) of that definition shall apply and have effect for the purposes of this Regulation.

(3) (a) Where, under Regulation 29 of the PAYE Regulations, the Collector-General has authorised an employer to remit to the Collector-General, within 14 days or 23 days, as the case may be, from the end of a longer period than an income tax month (within the meaning of those Regulations), the employer shall also be authorised to remit the amounts given by the formula in paragraph (1) within 14 days or 23 days of the same longer period and this paragraph and paragraphs (4) to (8) shall apply in relation to such an authorisation.

(b) For so long as the authorisation referred to in subparagraph (a) remains in force, the schedule of amounts of money referred to in subparagraph (b) of paragraph (3) of Regulation 29 of the PAYE Regulations shall also include the employer’s best estimate of his or her USC liability and the conditions referred to in the said subparagraph (b) shall, with any necessary modifications, apply to USC as they apply to income tax.

(c) Anything done under or in accordance with Regulation 29 of the PAYE Regulations in relation to income tax shall apply equally for the purposes of USC to which this Regulation applies.

(4) If the amount that the employer is liable to remit to the Collector-General under paragraph (1) exceeds the amount of the total USC deducted in respect of relevant emoluments paid by the employer during the relevant month, a Revenue officer—

(a) on being satisfied that the employer took reasonable care to comply with these Regulations and Part 18D of the Act and that the underdeduction was due to an error made in good faith, or

- (b) where he or she is of the opinion that an employee has received his or her relevant emoluments knowing that the employer has willfully failed to either deduct from those emoluments or to remit in respect of those emoluments an amount of USC that the employer was liable to deduct or to remit in accordance with these Regulations,

may direct that the amount of the excess shall be recovered from the employee, and where he or she so directs, the employer shall not be liable to remit the amount of the excess to the Collector-General.

(5) If a difference arises between the employer and the employee as to—

- (a) whether the employer has deducted USC, or in respect of Regulation 23 is deemed to have deducted USC, from relevant emoluments paid to or on behalf of the employee, or
- (b) the amount of USC that has been so deducted or is so deemed to have been deducted,

the matter shall, for the purposes of ascertaining the amount of any USC to be recovered from the employee under paragraph (4), be determined by the Appeal Commissioners and such a determination may be made by one Appeal Commissioner.

(6) (a) If the total of the amounts that the employer was liable to repay during any month in a USC year exceeds the total of the amounts that the employer was liable to deduct during that month, the employer shall be entitled to deduct the excess from any amount that he or she is subsequently liable to remit to the Collector-General under paragraph (1).

(b) The excess referred to in subparagraph (a) may only be deducted from any amount that the employer is liable to remit to the Collector-General on or before the return filing date for the last month of that USC year and any part of that excess that is not so deducted may be recovered, on application, from the Revenue Commissioners.

(7) (a) On payment of USC, the Collector-General may send to the employer concerned a receipt in respect of the payment.

(b) The receipt referred to in subparagraph (a) may consist of—

- (i) a separate receipt in respect of each such payment, or
- (ii) a receipt for all such payments made within the period specified in the receipt.

Employer failing to pay USC

27. (1) (a) If, on or before the return filing date, or within such longer period as may be authorised under Regulation 26(3), as the case may be—

- (i) the employer has remitted no amount of USC to the Collector-General under Regulation 26 for that month or longer authorised period, and
- (ii) the Collector-General is unaware of the amount, if any, that the employer is liable to remit,

the Collector-General may give notice to the employer requiring him or her to send to the Collector-General, within the period specified in the notice, a return showing the name of every employee to whom or on behalf of whom he or she made any payment of relevant emoluments or repayment of USC in the period from the preceding 1 January to the date specified by the notice, and the employer shall comply with the requirements of the notice.

- (b) The following particulars shall also be included in the return referred to in subparagraph (a) in respect of each employee—
 - (i) the rate cut-off points, where a certificate of rate cut-off points is held,
 - (ii) the payments of relevant emoluments made to or on behalf of the employee during that period, and
 - (iii) any other matter affecting the calculation of USC that the employer was liable under these Regulations to deduct or to repay during that period.

(2) In a case referred to in paragraph (1) the Collector-General shall ascertain, in like manner as the employer should, under these Regulations, have ascertained, the amount of USC that the employer should have deducted from the relevant emoluments, and shall notify the amount to the employer.

(3) A notice given by the Collector-General under paragraph (1) may extend to 2 or more consecutive months or 2 or more longer authorised periods, as the case may be.

(4) A notice may be given by the Collector-General under paragraph (1) notwithstanding that an amount of USC has been remitted to the Collector-General by the employer under Regulation 26 for any month or longer authorised period if the Collector-General is not satisfied that the amount so remitted is the full amount that the employer is liable to remit for that month or longer authorised period.

Return by employer at end of USC year

28. (1) Within 46 days from the end of a USC year, or from the date the employer ceases permanently to be an employer to whom Regulation 7(1) of the PAYE Regulations applies, whichever is the earlier, the employer shall send to the Collector-General—

(a) a return, in a form approved by the Revenue Commissioners, in respect of each employee to whom payment of relevant emoluments was made during that USC year showing—

- (i) the total relevant emoluments paid to the employee in the USC year,
- (ii) the total amount of USC payable as respects the employee in the USC year, and
- (iii) the dates of commencement and cessation within the USC year of the employment of the employee, where applicable,

and

(b) a statement, declaration and certificate in a form approved by the Revenue Commissioners, showing the total amount of USC that the employer was liable to remit in respect of every employee to whom payment of relevant emoluments was made in the USC year.

(2) Where the employer is a body corporate, the statement, declaration and certificate referred to in paragraph (1)(b) shall be signed either by the secretary or by a director of the body corporate.

Death of employer

29. If an employer dies, anything that the employer would have been liable to do under these Regulations shall be done by the employer's personal representative, or, in the case of an employer who paid relevant emoluments on behalf of another person, by the person succeeding the employer or, if there is no such person, the person on whose behalf the employer paid relevant emoluments.

Succession to a business, etc.

30. (1) This Regulation applies where there has been a change in the employer from whom an employee receives relevant emoluments in respect of his or her employment in any trade, business, concern or undertaking, or in connection with any property, or from whom an employee receives any annuity or pension.

(2) Where this Regulation applies, the change shall not be treated as a cessation of employment for the purposes of Regulation 19, but, in relation to any matter arising after the change, the employer after the change shall be liable to do anything that the employer before the change would have been liable to do under these Regulations if the change had not taken place.

(3) The employer after the change shall not be liable for the payment of any USC that was deductible from relevant emoluments paid to the employee before the change took place.

PART 5

ASSESSMENT

Assessment of relevant emoluments

31. (1) Nothing in these Regulations shall prevent an assessment to USC being made on a person in respect of his or her relevant emoluments for any USC year.

(2) Any assessment to USC on an employee in respect of relevant emoluments may be made by any Revenue officer and shall be valid notwithstanding that the employee is not in the State during the USC year in which the assessment to USC is made.

(3) All the relevant emoluments of an employee may be included in one assessment.

Return of certain relevant emoluments by employer

32. A Revenue officer may give notice to an employer requiring the employer to send a return of any relevant emoluments paid by that employer to or on behalf of any employee for any USC year, being relevant emoluments that are not paid to or on behalf of the employee until after the end of that USC year, and any such return shall be sent to that Revenue officer within the period specified in the notice.

End of year review and notification of liability

33. The Revenue Commissioners may, in any case where they do not propose to make an assessment to USC on an employee, send, as soon as possible after the end of the USC year, a statement of his or her liability for that year showing how it is proposed to deal with any overpayment or underpayment of USC.

Objections and appeals against assessments

34. Part 40 of the Act shall, with any necessary modifications, apply in relation to an appeal by an employee against an assessment of relevant emoluments.

Recovery of underpayments

35. (1) If USC payable under an assessment to USC exceeds the total USC deducted from an employee's relevant emoluments during a USC year, a Revenue officer, instead of taking the excess into account in determining—

- (a) the appropriate rate cut-off points for a subsequent USC year,
- (b) the amount of tax credits (within the meaning of the PAYE Regulations) for a subsequent USC year in accordance with section 531AY(4) of the Act, or
- (c) the standard rate cut-off point (within the meaning of the PAYE Regulations) for a subsequent USC year in accordance with section 531AY(4) of the Act,

may require the employee to remit the excess to the Collector-General, and, where the Revenue officer so requires, the employee shall remit the excess accordingly on demand made by the Collector-General.

(2) For the purposes of determining the amount of any such excess, any necessary adjustment shall be made to the total USC in respect of any USC overpaid or remaining unpaid for any USC year.

(3) Any USC that is to be remitted to the Collector-General under paragraph (1) shall be remitted within 14 days of the date on which the Collector-General first makes application for payment of that USC.

(4) Any USC that is to be remitted to the Collector-General by any employee may be recovered in the manner provided by Part 42 of the Act.

Given under my hand,
16 December 2011.

MICHAEL O'GRADY,
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations, which come into force on 1 January 2012, prescribe the manner in which universal social charge (USC) is to be deducted from salaries and wages and accounted for to the Revenue Commissioners under the “Pay As You Earn” (PAYE) system.

Part 1 contains definitions of several terms used in the Regulations. It also covers the instance where an employee works under the management of a person who is not his or her immediate employer. In such circumstances the person under whose management the employee works is deemed to be his or her employer. It allows responsibilities and functions of the Revenue Commissioners to be carried out by Revenue officers acting under their direction. It also allows for the same documents to be used for both income tax and USC purposes.

Part 2 requires the Revenue Commissioners to determine the rate cut-off points appropriate to an employee for a particular year of assessment and to make this determination available to the employee. The Revenue Commissioners are also required to furnish the employer of that employee with a certificate of those rate cut-off points. Determinations and certificates of rate cut-off points for any particular year of assessment will have effect for each subsequent year for which an employee’s personal circumstances and USC rates and bands remain unchanged. There is provision for appealing a determination where an employee is aggrieved by the determination.

Part 3 concerns the deduction and repayment of USC under the PAYE system. There are special rules in relation to certain non-monetary benefits received by an employee. For the most part, deductions and repayments are to be made by reference to the cumulative emoluments paid to an employee and the cumulative rate cut-off points as specified on the certificate of rate cut-off points. There are provisions regarding changes of employment and for deduction of tax on an emergency basis where the employer does not hold a certificate of rate cut-off points. At the end of each year of assessment, employers are required to give every employee a certificate showing particulars of emoluments paid and USC deducted during that year.

Part 4 deals with payment and recovery of USC deducted under the PAYE system. Employers are required within 14 days from the end of every month to pay over to the Collector-General all USC that they were liable to deduct, less any USC that they were liable to repay, during the month. The Collector-General may authorise an employer to make remittances of USC at longer intervals (not exceeding one year) than the normal monthly basis. The Collector-General may also terminate such authorisation. Within 46 days from the end of a year of assessment, employers are to send to the Collector-General a return, in the appropriate form, showing total emoluments paid to the employee during the year and total net USC deducted.

Part 5 provides for the making of assessments on employees where insufficient USC has been deducted and, where assessments are not made, for supplying employees with statements of their liability. Underpayments of USC may also be recovered by adjusting rate cut-off points and income tax credits for subsequent years.

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