

## PAYE (Employer) Compliance

This should be read in conjunction with [Tax and Duty Manual Part 42-05-06](#)

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## 1. Introduction

The Income Tax, the Universal Social Charge (USC) and the Pay Related Social Insurance (PRSI) 'pay as you earn' systems (collectively known as 'the PAYE system') place obligations on employers including an obligation to make deductions at source of Income Tax, USC and PRSI from payments made to employees and an obligation to remit such deductions to Revenue.

This Instruction relates to those aspects of the Income Tax PAYE system relating to the:

- (a) obligations placed on employers by:
- PAYE Regulation 7 (Register of Employers)
  - PAYE Regulation 8 (Register of Employees)
  - PAYE Regulation 20 (employer notification to Revenue where employer has received Form P45 from a new employee)
  - PAYE Regulation 22 (employer notification to Revenue where employer has either not received a Form P45 from a new employee or has not received a certificate of tax credits and standard rate cut of point in respect of a new employee from Revenue).
- (b) penalties for failure by an employer to comply with those obligations (and the procedures relating to such penalties).

## 2. The Income Tax (Employments) Regulations 2012

The Income Tax PAYE system is governed by:

- Chapter 4 (Collection and recovery of income tax on certain emoluments [PAYE System]) of Part 42 (Collection and Recovery) (as amended) of the Taxes Consolidation Act (TCA) 1997,
- the Income Tax (Employments) (Consolidated) Regulations 2001 (as amended) which are more commonly known as the PAYE Regulations.

The [Income Tax \(Employments\) Regulations 2012](#) came into force on the 18<sup>th</sup> July 2012 and they amend the Income Tax (Employments) (Consolidated) Regulations 2001 by substituting a:

- new PAYE Regulation 7 for PAYE Regulation 7 (Register of Employers),
- new PAYE Regulation 8 for PAYE Regulation 8 (Register of Employees).

### **3. PAYE Regulation 7 – Register of Employers**

In brief, PAYE Regulation 7:

- (a) obliges an employer who pays emoluments to or on behalf of an employee at a rate exceeding €8 per week or €36 monthly to send, within 9 days of paying such emoluments:
- a notification to Revenue of his or her name and address (or a change of his or her name and address) and of the fact the he or she is paying emoluments,
  - to register with Revenue as an employer.
- (b) obliges Revenue to keep and maintain a register of employers and notify each employer of his or her registration number.

### **4. PAYE Regulation 8 – Register of Employees**

In brief, PAYE Regulation 8 obliges employers to:

- (a) keep and maintain, in paper or electronic format, a ‘Register of Employees’ and to keep and maintain that Register (or a copy of it) at either the:
- normal place of employment of each employee, or
  - main place of business of the employer.
- (b) enter in the Register of Employees:
- the name, address and Personal Public Service Number (PPSN) of each employee,
  - the date of commencement of employment of each employee,
  - where relevant, the date of cessation of employment of each employee.
- (c) produce the Register of Employees (or a certified copy of it) or an extract from it to any Revenue officer within the period specified by that Revenue officer.

## **5. Register of Employees**

### **5.1. Details to be included in the Register of Employees**

A Register of Employees must include the following relevant details:

- the name, address and PPSN of each employee,
- the date of commencement of employment of each employee,
- where relevant, the date of cessation of employment of each employee.

## **5.2. Records or Registers that may, for PAYE purposes, be accepted as a Register of Employees**

In some instances, an employer may, for the purposes of payroll, human resources or fulfilling a non-tax related statutory obligation, hold a record or register of all employees (and former employees).

Such a record or register will suffice as a Register of Employees for PAYE purposes provided that it includes the relevant details outlined in [Paragraph 5.1](#) above.

## **5.3. Place of retention of Register of Employees**

An employer must keep and maintain the Register of Employees (or a copy of it) at the normal place of employment of each employee or at the main place of business of the employer.

For employers who have a place of business in more than one location (or, indeed, in several locations) and the payroll records, staff records, etc. are held in just one location (for example, a head office), that one location may be accepted as that employer's main place of business for the purposes of being the place of retention of that employer's Register of Employees. However, it is to be noted that PAYE Regulation 8 provides that a Revenue officer may require an employer to produce, within the period specified by that officer, an extract from that employer's Register of Employees. In this regard, a Revenue officer may require an employer to produce an extract from that employer's Register of Employees relating to, for example, the employees of a branch of the employer's business.

## **5.4. Temporary, part-time, casual staff, etc.**

Notwithstanding that an employee may be employed on a temporary, part-time or casual basis, the relevant details (see [Paragraph 5.1](#) above) of such employee must be entered in the relevant employer's Register of Employees.

## **5.5. Incomplete Register of Employees**

An employer who keeps and maintains a register that does not include the relevant details (see Paragraph 5.1 above) of **all** employees shall be liable to the relevant penalty for not keeping and maintaining a Register of Employees.

## **5.6. Production of Register of Employees**

On being required to do so by a Revenue officer, an employer has a statutory obligation to produce, within the period specified by that officer, that employer's

Register of Employees [or, as appropriate, a certified copy (including electronic copy) of it] to any Revenue officer.

### **5.7. Records held by a tax or payroll agent / Records held in a payroll software package**

Notwithstanding that an employer may:

- engage the services of a tax or payroll agent, and/or
- use a proprietary software payroll or human resources package,

the onus is on that employer to keep and maintain the Register of Employees (or a copy of it) at the normal place of employment of each employee or at that employer's main place of business.

## **6. PAYE Regulation 20: Change of employment where new employer receives Form P45 from employee**

Where an employee delivers a Form P45 (issued by his or her former employer) to his or her new employer, Paragraph (3)(a) of PAYE Regulation 20 imposes an obligation on that new employer to insert on one copy of that Form P45 details of commencement of employment of that new employee and to send immediately that copy to Revenue. (Note: For most employers this is an electronic submission).

## **7. PAYE Regulation 22: Employer notification to Revenue where employer has not received a Form P45 from new employee**

Where:

- (a) a new employee does not deliver a form P45 (issued by a former employer) to his or her new employer, and
- (b) the new employer is not in possession of a certificate of tax credits and standard rate cut-off point in respect of that new employee,

paragraph (1) of PAYE Regulation 22 imposes an obligation on that employer to notify Revenue on the occasion of first payment under Regulation 7:

- the new employee's name and address,
- the date of commencement of employment,
- any other particulars needed so that the appropriate certificate of tax credits and standard rate cut-off point can be issued.

Until the employer receives the appropriate certificate of tax credits and standard rate cut-off point in respect of that new employee the employer must operate the emergency tax provisions. This is set out in the [PAYE and USC Regulations – Emergency Tax](#) manual.

## **8. Power of inspection for PAYE purposes**

The power of inspection of Revenue authorised officers for the purposes of the PAYE system is contained in section 903 TCA, 1997. Under that section, an authorised officer may require an employer to produce any records which the authorised officer requires for the purposes of his or her enquiry. In this context, records include a Register of Employees.

## **9. Penalties**

### **9.1. Penalties for breaches of the PAYE Regulations**

The penalties for breaches of the PAYE Regulations are contained in section 987 TCA, 1997. More specifically, an employer who fails to fulfil any of the obligations under PAYE Regulations 7, 8, 20 or 22 mentioned above shall be liable to a penalty of €4,000 for each breach (and where that employer is a company, the Secretary of that company shall be liable to a separate penalty of €3,000 in respect of each such failure).

### **9.2. Penalties for failure by an employer to produce records**

Where an employer fails to comply with a requirement of an authorised officer - in the exercise of that officer's powers or duties under section 903 TCA 1997 (Power of inspection: PAYE) - to produce any records which that officer requires for the purposes of his or her enquiry, subsection (5) of section 903 provides that that employer shall be liable to a penalty of €4,000.



The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## **10. Breaches of compliance with obligations in PAYE Regulation 7, 8, 20 or 22 mentioned above**

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

## **11. Agreement and Payment of Penalty for breaches of obligations in PAYE Regulation 7, 8, 20 or 22**

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### **11.1. Employers who do not avail of the opportunity referred above to rectify breaches of Regulation 7, 8, 20 or 22.**

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

### **11.2. Outstanding liabilities of Income Tax/ USC / PRSI**

Apart from the breach of Regulation 7, 8, 20 or 22 outlined above, the employer is also liable to pay any outstanding Income Tax, USC and PRSI that should have been deducted on the paying of emoluments to employees.

Where an employer has an outstanding liability in respect of Income Tax, USC and PRSI that should have been deducted on the paying of emoluments to employees, such liabilities should be calculated and collected along with interest. In addition, the penalty procedure outlined in the [Code of Practice for Revenue Audit and other Compliance Interventions](#) should be followed.

Where the employer fails to pay outstanding liabilities, it may be necessary to issue a PAYE estimate to that employer (see [Tax and Duty Manual Part 42-05-06](#) - Guidelines on PAYE/PRSI Universal Social Charge (USC)/Local Property Tax (LPT) monthly and annual estimates).

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