



The Chartered Institute of Payroll Professionals

Bi-Monthly Newsletter

June 2013



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of **payroll professionals**

leading the profession

Welcome



Welcome to the June edition of the bi-monthly newsletter from the CIPP's Policy & Research Team. Our aim is to give you a round-up of some of the news and views impacting the payroll sector in recent weeks.

Given the weather conditions, it is sometimes difficult to tell what time of the year we are currently enjoying and so the advantage of working in the payroll industry is that our eyes never stray far from our calendars to see which deadline is looming. Since the go-live of RTI, deadlines seem to be more plentiful and more numerous than they have ever been before and whilst it is too early to call as to the success or failure of go-live of RTI, the one thing that can be assured is that whatever the weather we are never in doubt about our dates!

Dates continue to be critical for employers planning for the approach of their staging date for automatic enrolment (AE) and if you haven't already made use of The Pensions Regulator's (TPR) online tool, which has been designed for employers (with only one Pay As You Earn (PAYE) scheme) to find their [staging date](#) then we would strongly recommend that you do so now. With an average planning time of 18 months and with increased concerns about how the pension industry is going to cope with unprecedented demand for AE compliant pension schemes, the message is quite simple – you can't start planning too soon!

As you might imagine this newsletter doesn't simply cover RTI and Auto Enrolment – although we could probably fill a book with news on just those two subjects - but also takes a look at a host of other newsworthy subjects.

With change being so constant it can never be said that life will be boring when working in payroll and with that thought in mind please read on to see what news is currently available on the subjects of the National Minimum Wage rates, flexible working, the Statutory Residence Test and employment related shares, along with many more seemingly unrelated subjects that have one common denominator – the need for a hard working payroll professional!

Most of the largest employers have yet to go live with RTI however and so before we move on, let us pause for a moment to wish them well in their endeavours and share with them a quote given to us by a RTI Pilot employer when asked to compare this year end process with those that had gone previously *"the process was easier although we had our hearts in our mouth because it was the first time under RTI"* - an experience which can be echoed by many I am sure!

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Direct Earnings Attachments

Direct Earnings Attachment – update to the employer's guide

23 April 2013

The Department for Work & Pensions have updated their Employer's Guide to Direct Earnings Attachments (DEA).

The [Employer's Guide](#) aims to provide the employer with a guide on how to operate and make payments for a Direct Earnings Attachment if asked to implement a Direct Earnings Attachment during the pilot period, which began on 8 April 2013.

Be aware that a dedicated helpline 0845 600 0685 has been provided to assist employers who receive a letter requesting them to operate a DEA.

Better Regulation

Growing your business - a report on growing micro businesses

13 May 2013

The Department for Business, Innovation & Skills has published the second of Lord Young's report which highlights the growing importance of micro-businesses and makes recommendations of help that the government could provide to help micro-businesses to grow.

Over 95% of businesses employ less than 10 employees and Lord Young's second report [Growing Your Business – A Reporting on Growing Micro Businesses](#) includes a recommendation to remove the age cap – currently set at 30 years old – for the Government's Start-Up loan scheme, so that all entrepreneurs that would otherwise struggle to secure the necessary finance and support can benefit.



The Start-Up loan scheme can provide support in getting business ideas off the ground with a loan of typically around £4,500 and mentoring support. It has exceeded expectations by 50% in its first year, with 3,768 loans worth around £16m now issued since its launch in the autumn. Many of these new businesses are now taking on their own employees.

Further recommendations in Lord Young's report include:

- Legislating to abolish pre-qualification questionnaires (PQQ) on contracts under €200k across the public sector, and setting "single market" principles which suppliers can expect when doing business with the public sector. These principles would simplify and standardise the bidding, payment and advertising of contracts, and would remove the complexity, cost and inconsistency when trying to sell to more than one local authority or public sector body. This would help SMEs further access the £230 billion per year that is spent on goods and services across the whole public sector. *Shaun Jeffers / Shutterstock.com*
- A £30m Growth Voucher programme to encourage more small firms to get specialist help on: expanding their workforce; marketing a business; financial management and growing online. Businesses that use external advice at key stages in their development grow faster than those that do not – but too few are taking this up.
- A greater role for business schools in the local economy with the establishment of a new national "Supporting Small Business Charter" and accompanying award scheme to incentivise business schools to help SMEs grow. This will include advising small firms and increasing the flow of highly qualified students and graduates into SMEs. Business schools could also become a key part of the referral process and provision of Start-Up Loans and Growth Vouchers.
- Enabling the private sector to provide advice to SMEs on the Government's website GOV.UK and releasing the online SME advice that the Government holds after the closure of the Business Link website to third party providers for them to rebuild and improve.
- Better marketing of Government schemes to support new and developing businesses by ensuring they are properly resourced and targeted at the small firms that need them most.

The Government will now take these recommendations forward.

Lord Young said:

"We have one of the best environments in the world for the creation of new firms. What this report endeavours to do is to help and encourage all those new firms to now take on their first employees and grow."

"Growing our smallest businesses would transform our economy – they are the vital 95%. If just half of the UK's micro businesses took on an additional member of staff, unemployment would be reduced to almost zero. We need to raise the aspirations and confidence of these businesses and give them the tools to grow."

The [press release](#) can be read in full at gov.uk

The Queen's Speech 2013 – what impact for payroll?

8 May 2013

Following on from the government's aims outlined in the March Budget, the Queen's Speech reiterated the commitment from Her government to rewarding "people who work hard."

So, that's good for those of us working within the Payroll Industry, as we look forward to receiving our just rewards!

You could be forgiven for thinking that with a speech being delivered in just over 7 minutes, the government doesn't have a lot planned for the coming parliamentary session, how wrong you would be! The [Briefing Notes](#) running to a tune of 92 pages would argue otherwise and just as we expect with the Budget, the 'detail' rather than the speech itself will undoubtedly provide us with more than we may have thought at first hearing!



In the meantime however, our workloads have been assured by way of the following statements:

...commitment to give every business and charity a £2,000 allowance towards their National Insurance Contributions bill, from April 2014, which is said to potentially benefit 1.25 million businesses;

Increase to the income tax personal allowance by £560 to £10,000 from April 2014 which will take 2.7 million people out of tax altogether... (but will this lighten the administrative burden on the employer?)

The introduction of a new system of tax-free childcare vouchers to support working families with 20 per cent of childcare costs. The scheme will be phased in from 2015-16 and once fully phased in will provide support for children under 12, up to a limit of £6000 for each child per year;

Implementing Universal Credit – to simplify the welfare system and make work pay, changing the incentives in the benefit system so that it acts as a springboard into work rather than a trap. We have yet to establish the impact, direct or otherwise, that Universal Credits will have on the employer, but we are experiencing the impact of Real Time Information and whilst it is early days we certainly can't say at this stage that this has, in all cases, lightened the load for the employer?

Together with vital pensions reforms – already introducing automatic enrolment into workplace pensions and bringing in the single tier pension from January 2016 – we are ensuring that, first that it pays to work, and then it pays to save. In doing so, we will help to reduce poverty and welfare dependency, setting people on a journey to independence.

Clearly the payroll industry is going to be taking centre stage in ensuring the delivery of a significant proportion of the government agenda in the coming parliamentary year.

National Insurance Contributions Bill

The main elements of the National Insurance Contributions Bill are:

- Reducing employer NICs bills each year by, from April 2014, entitling every business and charity to a £2,000 Employment Allowance.
- Extending the General Anti-Abuse Rule to NICs, reinforcing the Government's commitment to tackle abusive avoidance.
- Strengthening legislation to prevent the use of offshore employment payroll companies (intermediaries) to avoid employer NICs.
- Removing the presumption for self-employment for limited liability partnership members.

Teachers Pay & Conditions

The Secretary of State accepted the STRB's recommendations on the grounds that they will:

- provide greater autonomy and more freedom for schools to spend their money as they see fit to meet their pupils' needs. Remove the inflexibility of the current system.
- enable schools to develop pay policies that are tailored to their needs and attract and retain those teachers that have the greatest impact on their pupils.
- raise the status of the profession by enabling teachers to be rewarded in line with their performance and the most successful to progress faster than at present on the basis of annual appraisal.

The changes come into effect from September 2013. A revised School Teachers Pay and Conditions Document (STPCD), setting out the new arrangements for teachers' pay, and Departmental advice to help schools reflect these in their own policies are now available on the DfE website. A further revision is expected to be made available in August 2013 to update the pay tables.

Pensions Bill The main elements of the Pension Bill are:

The single-tier State Pension:

A new flat rate pension set above the basic means test to replace the current two-tier system of basic State Pension and earnings-related additional State Pension, to be implemented from April 2016.

Changes to State Pension age:

Two measures in relation to State Pension age: one to bring forward the increase to State Pension age to 67 by eight years, to take place between 2026 and 2028; and another to enable a regular review of State Pension age in the light of rising life expectancy.

Providing for automatic transfer of small dormant pension pots and abolishing short service refunds:

A framework for a system of automatic transfers so that someone's pension pot will follow them to their new pension scheme when they change jobs. It also provides for abolition of short-service refunds for defined contributions trust-based schemes for people who leave a scheme within two years.

New objective for the Pensions Regulator:

A new statutory objective for the Pensions Regulator to consider minimising any impact on the sustainable growth of sponsoring employers.

The Bereavement Support Payment:

Reforming the existing suite of bereavement benefits through the introduction of the Bereavement Support Payment - a single benefit to support people following bereavement.

Immigration Bill – the Bill would enable tough action against businesses that use illegal labour, including more substantial fines.

So, lots for us to continue getting our teeth in to, but thankfully no big surprises!

Citizen News

UK Border Agency

All change at the UK Border Agency

4 April 2013

The Border agency is to be split into 2 separate entities as part of a package of measures set to improve the performance of the immigration system. The 6 April 2013 will also see an increase to UK Visa Fees and an updated Code of Practice for Skilled Workers.

Further changes will include the removal of its agency status and the move of both new organisations - an immigration and visa service and an immigration law enforcement organisation - under the Home Office to report to ministers.

The IT systems are also set to see improvements which will be made across the whole immigration system along with clarification of the policy and legal framework within which the system operates through an Immigration Bill in the next session of Parliament.

The agency has also announced that as from 6 April 2013 there is to be an increase in UK visa fees [UK Visa fees](#). Following Parliamentary approval, the fees will increase for visa applications made from overseas and all applications submitted from 00:01 (UK time) on Saturday 6 April, must be accompanied by the correct fee.

Any application accompanied by the old fee will not be accepted however, applicants can use an old version of an application form for 21 days following the increase, but these should be accompanied by the [new fee](#). New versions of the application forms will be available on the UKBA website.

An updated version of [Codes of Practice for Skilled Workers](#) to be used from 6 April 2013 is also available at the UKBA website. This document is aimed at employers who are looking to sponsor a migrant through the Points-Based System. It mainly applies to Tier 2 (General) and Tier 2 (Intra-Company Transfer) categories. However, it also applies to some parts of Tier 5, to post-study workers switching to Tier 1 (Entrepreneur) and to work permit holders applying for settlement. It is also used by UK Border Agency case workers. It lists:

- The skill level for each occupation;
- The minimum appropriate rates of pay for each occupation; and
- Example job tasks and titles to help you accurately match up a job to the corresponding classification code.

Preventing illegal working – check online

7 May 2013

In the run up to the go live of RTI, we all received regular reminders about the importance of holding up to date and accurate employee data along with the reminder that we should be following due process in ensuring that all potential employees have the right to live and work in the UK.

You may have had a moment of hesitation at the thought of the [preventing illegal working](#) process, whilst at the same time re-assuring yourself that 'nothing has changed' as indeed may well be the case!

However, just in case anything has changed since you last looked, this article aims to provide you with a timely reminder, if one were needed, that it is always worth a double check, and to highlight, if you weren't already aware, that you can carry out a simple check online to see whether a potential employee [can work in the UK](#).

Construction Industry

Construction Industry Scheme - record of amounts set off

23 April 2013

CIS132 form has been updated to take account of the recent introduction of RTI to PAYE processes.

The [update](#) confirms that for Companies, once the final submission of FPS and EPS has been made, any CIS deductions that have not been offset during the tax year may be repaid. The balance may however, be set against any unpaid tax, depending on the amounts involved.

Further information, if needed, can be found at www.hmrc.gov.uk/CIS alternatively the Construction Industry Scheme Helpline can be contacted on 0845 366 7899.

Digital by Default

The Department for Education making GOV.UK home

23 April 2013

Following hot on the heels of the DWP, the Department for Education has now begun its move to a new web home on the GOV.UK website.

Information for professionals working in schools or children's services will remain on the Department for Education website at www.education.gov.uk for now, but will be moved over to GOV.UK by the end of the year.

All corporate web addresses have been redirected, so you won't need to update your bookmarks, however you may wish to make a note of the new web address, which is www.gov.uk/dfe.

Number 10 completes the set!

3 May 2013

All ministerial department corporate web sites, as well as those of the Prime Minister and Deputy Prime Minister, are now on the single government domain.

This now concludes the merger of all departmental sites into GOV.UK which has been a key target of the government [Digital Strategy](#).

Minister for the Cabinet Office, Francis Maude said:

"I'm proud to welcome the online home of No.10 Downing Street to GOV.UK, our flagship website for government.

Our digital by default vision for government is all about having online public services which are so good that people will choose to use them – that's how we will get ahead in the global race. At GOV.UK anyone can find out information about any Whitehall department, all in one place.

Scrapping the old websites will save the taxpayer at least £50 million a year. But GOV.UK isn't just about saving money, it's designed to be clearer and has even won the Design Museum's international Design of the Year Award, beating the Olympic Cauldron and the Shard."

The Cabinet Office estimates that closing the Directgov and Businesslink websites and moving all government sites to GOV.UK will save the taxpayer at least £50 million annually. It also estimates that £1.2 billion could be saved during this Parliament by bringing government transactional services online, with potential annual savings of between £1.7 and £1.8 billion in the longer term.

Mike Bracken, Executive Director of GDS, added:

"Two years ago, there were an incredible 2,000 government websites. We've streamlined those into a single, central domain, GOV.UK, that is built entirely around the needs users have of government. We are designing online services that put those needs first and make it easier to do things like pay car tax, complete tax returns, apply for the state pension, and much more. GOV.UK represents world-class public service delivery and a fundamental improvement in the way users interact with government."

Employment Law & Guidance

Incorporation of collective agreement

15 April 2013

Was a collective agreement which set out two different and inconsistent pay increases enforceable?

Yes, held the Court of Appeal in [Anderson v London Fire & Emergency Planning Authority](#).

[Daniel Barnett](#) reports:

The employer entered into a three-year pay deal with two unions. According to the terms of the agreement, the pay increase in the third year was to be 2.5% or a figure arrived at by a formula which turned out to be 1.575%. Following the financial crisis, the employer offered 1.825%. The employees sought 2.5%.

The Court of Appeal held that the pay deal was not an 'agreement to agree'. Other clauses made it clear that both parties thought the deal was reached for all three years. It was not uncertain. It gave two clear choices. That being so, it was apt for incorporation.

Maurice Kay LJ considered what a reasonable person would have made of the agreement. The idea that the unions would have agreed to a deal which gave the employer an unfettered right to choose between the options was 'fanciful'. The increase had to be the greater of the two. No other meaning would have made 'industrial sense'. That must have been obvious to the employer.

Fee-paid judges - pensions

11 April 2013

February saw the Supreme Court hold that fee-paid judges are entitled to a judicial pension – the Lord Chancellor has recently announced a moratorium on such cases.

With thanks to [Daniel Barnett's](#) employment law bulletin.

The Lord Chancellor has now announced a moratorium on such cases. This means that potential Claimants who are approaching limitation deadlines will not need to lodge a 'protective' claim in the employment tribunal.

It is not immediately clear what power the Lord Chancellor has to waive tribunal limitation periods, as limitation is an issue which goes to jurisdiction. It is likely, though, that any tribunal would hold it was 'just and equitable' to extend time in such a claim if the Claimant had not issued proceedings in reliance on the Lord Chancellor's announcement.

Acas publishes new guidance on dealing with collective redundancies

9 April 2013

The 6 April saw new legislation come into effect which applies to employers proposing 100 or more redundancies.

A collective redundancy is when an employer proposes to make 20 or more employees redundant within 90 days. This can arise if an employer needs to:

- close or move all or part of their business
- make cost savings due to a change in customer demand or an efficiency drive
- reorganise the way their business is run.

A key change for employers is that they must start consultation at least 45 days before any dismissals can take effect. This has been reduced from 90 days.

Acas have published Advisory booklet – [How to manage collective redundancies](#) to help employers understand their legal obligations. The guide sets out the principles and behaviours behind a good quality consultation to help employers manage collective redundancies more effectively.

Acas Chair Ed Sweeney said:

"This new guidance draws on our knowledge, expertise and experience in helping to resolve the thousands of workplace disputes every year."

"In 2011/12 11 per cent of Acas' collective conciliation cases related to redundancies and of the 925,000 calls to our helpline, around 20 per cent were seeking information on redundancy-related situations.

"This guide will help employers and employees understand the recent changes and the new laws around collective redundancies with top tips on how to handle them."

Acas advises that for organisations to manage collective redundancies well and help ensure their future success, they need to have:

- good working relationships with employees, unions and employee representatives
- agreed procedures for handling redundancies
- an organisational culture that recognises the emotional as well as economic impact of change
- a plan for restructuring and looking to the future.

The consultation period for businesses that plan to make between 20 and 99 employees redundant remains unchanged. The consultation must start at least 30 days before any dismissals can take effect.

Taking on your first employee?

17 April 2013

ACAS have produced a step by step guide aimed at helping businesses faced with taking on their first employee.

This useful [step-by-step guide](#) is a tool which is aimed at small firms and organisations, and line and team managers in larger organisations.

It covers the following essential steps:

- Be prepared and know the basics
- Working out if you really need to hire someone
- Who do you want?
- Advertise and sift the applications
- Interview and offer the job

And also includes case studies to help answer some of the common concerns that face the new employer.

Employee Shareholder Status – the voting continues

24 April 2013

The House of Lords have voted for the second time to reject the proposed Employee Shareholder status set out in the Growth and Infrastructure Bill.

With thanks to [Daniel Barnett's Employment law bulletin](#). Under this scheme, which creates a third type of employment status, employers can award employees at least £2,000 in shares in exchange for the employee giving up a bundle of employment rights (including 'ordinary' unfair dismissal and the right to a statutory redundancy payment).

The government is determined to pursue the scheme, however, and this morning published a [list of concessions](#) which it hopes will mean the Lords accepts the proposed legislation. The concessions include:-

- a provision that the employee cannot accept the offer within seven days of it being made (how that would work in practice is unclear, and an employer remains free to refuse to offer the job to a prospective employee who doesn't want to take up employee shareholder status)
- a written statement setting out the rights that the employee is giving up
- a written statement setting out the details of the shares being offered (including whether they are voting or non-voting shares, whether they carry a dividend, and whether they carry a right to a share in the company's assets if it is wound-up, whether pre-emption rights are excluded, and details of drag-along and tag-along rights). Most employees will not understand the implications of this information, and there is nothing to prevent employers issuing pages of gobbledigook about the shares which buries this information somewhere within.

The government had made some earlier concessions to the original proposals:-

- a jobseeker who refuses a job on an employee shareholder basis will not automatically forfeit their unemployment benefits
- the first £2,000 of shares given to the employee will not attract income tax

So, the Commons will now re-debate - and presumably re-pass the relevant clause of the Growth and Infrastructure Bill. It will then go back to the Lords for a third time.

The Enterprise and Regulatory Reform Bill Receives Royal Assent

26 April 2013

Following some tinkering and concessions the Enterprise and Regulatory Reform Bill 2013 finally received Royal Assent.

Amongst other things, this legislation will bring about the introduction of a new employee status later this year – that of Employee Shareholder.

In an [announcement](#) from the Department for Business, Innovation & Skills the Business Minister Jo Swinson said:

"The measures in the Enterprise and Regulatory Reform Act will support the UK's enterprise culture and help make it one of best places to do business."

"It will put in place fairer systems for directors' pay, create a world-class competition regime, support the Green Investment Bank and improve our employment system. This will help businesses to start up, grow and employ more people."

The Bill was also the vehicle for implementing some of the Red Tape Challenge reforms. Many other [Red Tape Challenge](#) reforms are being implemented by Statutory Instrument or administrative measures.

Government continue to commit to Employee Ownership

2 May 2013

The Department for Business, Innovation & Skills continue to promote employee ownership by announcing changes to over-burdensome share buy back rules which are aimed at boosting direct employee ownership and cutting red tape.

Employment Relations and Consumer Minister Jo Swinson also [announced](#) that Thursday 4 July 2013 will be the first national Employee Ownership Day. The day aims to raise awareness of the Employee Ownership sector at both national and local level across the UK and to illustrate the achievements and progress made since last year's Employee Ownership Summit.

Employment Relations and Consumer Minister Jo Swinson said:

"Hundreds of businesses will benefit from the introduction of reforms that make direct employee ownership easier and simpler for both employers and employees."

"Evidence shows that employee owned companies can be more profitable, create more jobs and were more resilient during the economic downturn. We are committed to making direct employee ownership more attractive, cutting red tape for companies, and promoting new and more responsible ways of running a business."

"I hope these changes, alongside the announcement of an Employee Ownership Day on 4 July, will raise awareness of the benefits of employee owned companies and lead to an increase in the number of direct employee owned firms across the UK."

Under a separate announcement BIS have also published [draft 'off the shelf' model documentation](#) for setting up an employee owned company. Further details can be found at GOV.UK website on making [employee ownership](#) more accessible.

It would also appear that no-one can accuse government of not being prepared to put in to practice employee lead schemes as a further announcement is made that sees the [government's](#) Behavioural Insights Team take its first step to becoming a profit-making joint venture as the Cabinet Office launches a competition to find a commercial partner for the business. Less than three years after it was set up in the Cabinet Office the team is the first policy unit set to spin off from central government. This has been employee-led as the staff of the BIT have driven the process and will continue to run the organisation.

Employment Tribunals

Unlawful deductions claim and pension contributions

29 April 2013

The Employment Appeals Tribunal (EAT) has been considering the question as to whether pension contributions count as wages within a claim for the purpose of unlawful deductions.

Thank you to Daniel Barnett's Employment Law Bulletin for drawing our attention to the case of [Somerset County Council v Chambers](#) that asked the question of the EAT, do pension contributions amount to 'wages' for the purpose of an unlawful deductions claim?

It would appear not in this case.

Mr Chambers was a social worker employed by the Council. He was a member of a superannuation scheme to which both the employer and employee contributed. He later became a locum social worker on a fractional basis. A change to the Local Authority Pension Scheme rules meant that a person could not be a member of the scheme unless he was employed under a contract of employment of more than 3 months duration. The Council suspended contributions but later re-instated them. There was a dispute about pay, holiday pay and pension contributions in the suspension period.

The employment tribunal awarded the sums claimed as being wrongful deductions from wages.

On appeal to the EAT one of the questions was whether the employment tribunal had jurisdiction to award repayment of the employer's pension contributions on the basis these were deductions from 'wages'.

The EAT held that, notwithstanding the definition in s 27 (1) (a) of the Employments Rights Act 1996 that 'wages' meant "any sums payable to the worker in connection with his employment", this did not include contributions paid to a pension provider on the employee's behalf.

Termination payments and the penalty clause

2 May 2013

The unenforceability of a penalty clause in a fixed term contract has been under the spot light in a recent case concerning a football club.

Thanks to [Daniel Barnett's](#) Employment Law Bulletin for drawing our attention to this article.

Where termination of a fixed term contract was permitted provided the employer paid the employee's salary for the unexpired portion of the term, was that arrangement an unenforceable penalty clause? Obviously not, holds HHJ Pelling QC in [Henning Berg v Blackburn Rovers Football Club & Athletic PLC](#).



The contract of employment between the Football Club and Mr Berg permitted early termination of his fixed term, but required the Club to pay Mr Berg his salary for the whole period if it chose to terminate early. It did so choose, and Mr Berg claimed that sum.

Refusing the Club permission to withdraw its admission that the sum was due, the judge ruled that it was not arguable that the clause was an unenforceable penalty, because it was not a penalty for breach at all: it operated when the Club did something it was entitled under the contract to do.

TUPE consultation by insolvent companies

14 May 2013

Is it reasonable to expect an insolvent employer to continue to trade for 90 days, so that it can inform and consult in accordance with its obligations?

No, says the Employment Appeal Tribunal in *AEI Cables v GMB*. [Daniel Barnett](#) reports:

AEI, a manufacturer of copper wiring, had suffered financial difficulty as a result of a steep increase in the price of copper. It received advice from its accountants that, unless it reduced costs, there was a risk of the company trading whilst insolvent. The consequences of trading whilst insolvent are that the directors could incur personal liability for obligations assumed, and may also incur criminal liability for fraudulent trading. Following an unsuccessful request for an overdraft, the directors made 124 employees redundant with immediate effect.

The workers successfully claimed in the Employment Tribunal that there had been a breach of the duty to consult under s.188 TULCRA. The employment tribunal made 90 day protective awards to each employee under s.189 TULCRA.

On appeal to the EAT, the decision to make 90 day awards was overturned and 60 day awards were made instead. In explaining its decision, the EAT stressed that the purpose of making a protective award is penal, not compensatory. It is designed to encourage employers to comply with their obligation to consult. The ET was obliged to take into account mitigating factors, and should have asked the important question: "why did the respondent act as it did?" Had the ET asked this question, it would have seen that the company could not trade lawfully following the advice it received from its accountants. In those circumstances, it was wrong for the ET to anticipate that a 90 day consultation could have taken place.

On the basis that AEI's failure to consult was complete, but that "some consultation could clearly have taken place" in the limited time available, the EAT decided that an order for 60 days was appropriate.

Supreme Court: Methodist Minister is not an employee

15 May 2013

In a recent case the Supreme Court have ruled on the employment status of a Methodist Minister.

Thank you to [Daniel Barnett's Employment Law Journal](#) for the coverage of this case.

Was a Methodist minister an employee for the purposes of unfair dismissal protection?

No, says the Supreme Court (Baroness Hale dissenting), allowing the appeal and restoring the judgment of the ET in *President of the Methodist Conference v Preston*.



The minister carried out her functions under an agreement that entitled her to a stipend, accommodation and a pension; she paid tax under Schedule E, and was entitled to holiday and sick pay and subject to the possibility of disciplinary action. But the ET had felt bound by *President of the Methodist Conference v Parfitt* [1984] ICR 176 to hold that the spiritual character of the arrangement meant that there was no intention to create legal relations, so no contract.

The EAT and the CA had disagreed, holding that held that the reasoning of the CA in *Parfitt* could not survive the majority speeches in a more recent HL case, *Percy v Board of National Mission of the Church of Scotland* [2006] I.C.R. 134.

The majority of the Supreme Court holds that although there is no presumption against an intention to create legal relations in the appointment of a minister of religion, a consideration of the detailed internal arrangements of the Methodist Church leads to the conclusion that in this case there was no such intention; so no contract.

The gist of Baroness Hale's succinct and pragmatic dissent: 'it quacks like a duck and swims like a duck.'

Expenses and Benefits

Advisory Fuel Rates

Advisory Fuel Rates as from 1 June 2013

28 May 2013

HMRC have published the advisory fuel rates for company cars to operate as from 1 June 2013.

Since March 2011 rates have been reviewed four times a year and HMRC website holds details of the latest [Advisory Fuel Rates](#) along with links to rates dating back to 2002.

Employers are advised to review the latest available data in February, May, August and November each year.

Engine size	Petrol	LPG
1400cc or less	15p	10p
1401cc to 2000cc	17p	12p
Over 2000cc	25p	18p

Engine size	Diesel
1600cc or less	12p
1601cc to 2000cc	14p
Over 2000cc	18p

Hybrid cars are treated as either petrol or diesel cars for this purpose.

These rates are calculated from the fuel prices in the tables below:

Petrol

Engine size (cc)	Mean MPG	Applied MPG	Fuel price (per litre)	Fuel price (per gallon)	Pence per mile	AFR
up to 1400	49.07	41.7	133.2	605.4	14.5	15
1401 - 2000	41.17	35.0	133.2	605.4	17.3	17
over 2000	28.41	24.1	133.2	605.4	25.1	25

Diesel

Engine size (cc)	Mean MPG	Applied MPG	Fuel price (per litre)	Fuel price (per gallon)	Pence per mile	AFR
up to 1400	49.07	41.7	133.2	605.4	14.5	15
1401 - 2000	41.17	35.0	133.2	605.4	17.3	17
over 2000	28.41	24.1	133.2	605.4	25.1	25

LPG

Engine size (cc)	Mean MPG	Applied MPG	Fuel price (per litre)	Fuel price (per gallon)	Pence per mile	AFR
up to 1400	49.07	41.7	133.2	605.4	14.5	15
1401 - 2000	41.17	35.0	133.2	605.4	17.3	17
over 2000	28.41	24.1	133.2	605.4	25.1	25

Employer Supported Childcare

Correction to CWG2 employer further guide to PAYE & NIC (2013)

17 May 2013

If you routinely download the CWG2 Employer Further Guide to PAYE & NICs be aware that you will need to replace a page due to a correction.

A correction has been made to page 67 of the [CWG2 \(2013\)](#) 'Childcare Vouchers' information within the P9D/P11D chart.

Expense and Benefits - General

HMRC – new expenses and benefits online forms

9 April 2013

HM Revenue & Customs (HMRC) have started to provide employers and agents with an additional method for reporting end-of-year expenses and benefits.

Initially employers will only have two forms that can be sent online:

- [No return of Class 1A National Insurance contributions](#) - used to report that no P11Ds or P11D(b) are due
- [Notification of payrolled benefits](#) - used to notify HMRC in advance that they will be sending P11Ds online that include all expenses and benefits provided to employees that have been fully payrolled

[Online end of year Expenses and Benefits forms](#) is an HMRC produced web-based set of forms that should be most useful for small to medium sized employers when submitting their employees' expenses and benefits information online.

Initially there will be just two new online forms available - with the equivalent two forms for agents to use on behalf of their clients. In time more online forms will be developed, so it's very much a case of [watch this page](#).

Employers who currently use HMRC's Basic PAYE Tools to run payroll will need to consider alternative methods for completing end of year forms - P11D, P9D and P11D(b) - as the tools will not provide this facility from 2012-13 onwards.

2012-13 Forms P11D(b) and payslips – RTI pilot employers take timely action

19 April 2013

HMRC have confirmed via the Employer Bulletin (issue 44) that the forms P11D9b) and payslips, will not be sent out at the normal time to employers who volunteered to use RTI during 2012-13.

The Return of Class 1A National Insurance contributions – forms P11D(b) and payslips, which are normally sent out to employers in April, will not be sent out to employers who volunteered to join the RTI Pilot during 2012-13 until early July. It is anticipated that they will be dispatched 2 July which will mean that they are unlikely to arrive in time for the 6 July filing deadline.

The good news is that you don't have to wait to for this arrival, but can indeed take action and download a copy of the form [P11D\(b\)](#) from the HMRC website.

Employer supported local bus services

30 April 2013

In a recent update HMRC clarify guidance on Employer provided local bus services.

Details can be found in the form of [frequently asked questions](#), on the subject of Employer-supported local bus services.

HMRC General

No longer self employed? Don't forget to tell HMRC

4 April 2013

HMRC have an online system which can now be used to notify them that an individual is no longer self employed. You'll need to provide your:

- email address
- name
- date of birth
- home or business address
- daytime telephone number

Depending on your circumstances you'll also need your:

- Ten-digit Unique Taxpayer Reference number if you have previously completed a Self Assessment return. You'll find this on letters or forms sent by HMRC about your tax return
- National Insurance number

As well as telling HMRC you've stopped trading, you'll also need to complete your tax return ensuring that you enter the date you stopped being self-employed in the self-employment section.

If you are registered for VAT, an employer or CIS contractor, or a CIS subcontractor you'll also need to tell HMRC separately and [guidance](#) is available for each of these situations.

Dear HMRC I am writing this letter today because...

2 May 2013

If you dread the thought of writing to HMRC, due to the often lengthy delay in reply, you might be interested to hear of some work being carried out by the Working Together group.

The Working Together [Post Working](#) Group set up a pilot exercise to encourage the use of signpost headings on letters that agents send to HM Revenue & Customs (HMRC) regarding their clients' Self Assessment and PAYE affairs.

The heading, where used, should help HMRC to identify 'broadly' the subject content of the letter and therefore decided whether specific technical input is required – the aim being to speed up processing times.

As you might imagine common themes to post have been identified and as a result HMRC have produced two lists which they hope will prove helpful: **Primary level headings** - which summarise the broad subject of the letter examples would include: Agent no longer acting; employer penalty appeal; complaints - the list is extensive.

Secondary level headings – which could be used where the subject matter is more specific or requires more technical input examples would include: Appeals – penalty appeals; surcharge appeals; share schemes.

HMRC is asking agents to use these [headings](#) when writing to them about clients' affairs. The lists are not exhaustive - and more headings may be added in the future.

You should send your letters to the address on the most recent correspondence from HMRC. If you don't have recent correspondence, you can find the addresses from the links below.

[PAYE for individuals](#)
[Self Assessment](#)
[PAYE for employers](#)

Letters must contain either your client's National Insurance number, Unique Taxpayer Reference or the employer's PAYE reference number.

HMRC will be providing updates on the success of this pilot through the Working Together (WT) Post Working Group and welcomes your feedback through your WT groups. Working Together activities are reported in the bi-monthly [Agent Update](#).

PAYE tax calculations for 2012/2013

17 May 2013

It is that time of the year when HMRC begin to carry out the annual automated End of Year Reconciliation process to check whether customers in PAYE (Pay As You Earn) have paid the right amount of tax in 2012-13.

Approximately 85 per cent of HMRC customers under PAYE will have paid the correct amount but others may owe further amounts or be due a refund. In these cases HMRC will automatically send a tax calculation (on form P800) to demonstrate the details

It is expected that this automated process will be completed by October 2013, and there is no need to contact HMRC.



If you have:

- Paid too much tax, you will be sent a cheque, in most cases, within 14 working days from the receipt of a P800 Tax Calculation.
- Paid too little tax, the underpayment will in most cases be automatically collected through your 2014-15 annual tax code over 12 months.

Where this is not possible, HMRC will write to you and let you know what options are available to pay the tax outstanding. Further information on understanding and checking the [P800](#) Tax Calculation can be found at the website of HMRC.

Tax Agents and Advisers

HMRC Agent Bulletin issue 35

26 April 2013

HMRC have published the latest edition of Agent Update.

As you would expect at this time of the year [Update 35](#) is a bumper edition with the lead story being the subject of RTI. The bulletin then goes on, as normal, to cover the full range of business areas that impact on the working relationship between agents and HMRC.

Agents learning together with HMRC

2 May 2013

HMRC have published details of events that they are running for Agents who are registered with an Agent Account Manager.

HMRC [Learning Together](#) events enable tax agents and advisers to learn together in an informal and safe environment. However, before you can attend these events you will need to be registered for HMRC's [Agent Account Manager](#) (AAM) service.

Events are being held throughout May in a variety of locations.

National Insurance

National Insurance - General

Important information for sleeping and inactive limited partners about their liability to pay Class 2 and 4 National Insurance Contributions.

5 April 2013

HMRC now considers that Sleeping and inactive Limited Partners are - and have in the past - been liable to pay Class 2 National Insurance contributions (NICs) as self employed earners and Class 4 NICs in respect of their taxable profits. "Inactive Limited Partners" are Limited Partners who take no active part in running the business. This view represents a change from that previously held by HMRC and the Department for Work and Pensions.

What happens next?

Sleeping or inactive Limited Partners who have not paid Class 2 or Class 4 NICs for a past period will not be required by HMRC to pay those contributions.

Payment of Class 2 NICs from 6 April 2013

HMRC now take the view that Sleeping and inactive Limited Partners are liable to pay Class 2 NICs because they are "gainfully employed" as self employed earners for the purposes of section 2(1)(b) of the Social Security Contributions and Benefits Act 1992 because: -

- "Employment" as defined in section 122 of the Social Security Contributions and Benefits Act 1992 includes business and section 1(1) of the Partnership Act 1890 provides that "Partnership is the relation which subsists between persons carrying on a business in common with a view of profit"; and
- Section 2(1)(b) of the Social Security Contributions and Benefits Act 1992 imposes no requirement that partners have to be active in the business.

Class 2 NICs is a weekly liability which will be due from 6 April 2013 unless a Sleeping or inactive Limited Partner is either under 16, over pension age, is granted the Small Earnings Exception, is a married woman or widow with reduced liability, or claims deferment on account of other employments.

It will therefore be necessary for Sleeping and inactive Limited Partners to check their Class 2 NICs position. Sleeping and inactive Limited Partners who are not already paying Class 2 NICs as a result of being self employed must advise HMRC of their self-employed status and arrange to pay NICs or seek exception/deferment, etc, according to their individual circumstances. Many Sleeping and inactive Limited Partners will qualify under one of these exceptions but there is a need to ensure that the appropriate action has been taken.

Further information, including the form for partners to register for Class 2 NICs and Self Assessment is available from [HMRC's website](#).

National Insurance Numbers without suffixes

17 May 2013

HMRC have published an update on action needed in the event that you have been issued with a National Insurance Number with no suffix. HMRC will continue to investigate the problem however in the meantime have suppressed the issue of NINO's.

"In response to some National Insurance number Verification Requests (NVRs) and Full Payment Submissions (FPS) with missing or incorrect National Insurance numbers, HM Revenue & Customs has issued a number of National Insurance numbers without the final letter (A, B, C or D) of the number.

The issue of National Insurance numbers is currently on hold whilst we investigate this.

We have identified three scenarios and what actions employers should take.

Scenario 1 - the incorrect National Insurance number was included on an FPS and the correct number goes back with no suffix

You should use the National Insurance number that was sent back and use the suffix that was on the original submission - A, B, C or D. If you do not know what this was, you should enter the space bar. Please do not guess which letter (A, B, C or D) should be used.

Scenario 2 - no National Insurance number was provided on the FPS and the correct number goes back with no suffix

You should use the National Insurance number that was sent back, but enter the space bar instead of the suffix. It is important to enter the space bar, rather than trying to truncate the number to eight characters. Please do not guess which letter (A, B, C or D) should be used.

Scenario 3 - employer sends NVR and the National Insurance number supplied by HMRC is without a suffix

You should use the National Insurance number that was sent back but enter the space bar instead of the suffix. Use the space bar rather than trying to truncate the number to eight characters. Please do not guess which letter (A, B, C or D) should be used.

Please note that using a National Insurance number without a suffix (A, B, C or D) should be the exception, in these scenarios only.

We apologise for any inconvenience whilst we investigate this issue. We will publish an update on these pages."

National Minimum Wage (NMW)

Government accepts low pay commission's recommendations for this year's adult and youth National Minimum Wage rates

16 April 2013

The government has accepted the independent Low Pay Commission's (LPC) recommendations for this year's adult and youth National Minimum Wage (NMW) rates.

However, the government has concluded that the apprentice rate should be increased rather than frozen as recommended by the LPC. The LPC based this recommendation on concerns about level of compliance with the apprentice rate. The LPC recommended that the government should combine a communications campaign and a targeted enforcement initiative to ensure that the Apprentice Rate is known to employers and apprentices, and to ensure that infringers are caught, punished, and where appropriate, named.



The following rates will come into effect on 1 October 2013:

- the adult rate will increase by 12p to £6.31 an hour;
- the rate for 18-20 year olds will increase by 5p to £5.03 an hour;
- the rate for 16-17 year olds will increase by 4p to £3.72 an hour;
- the apprentice rate will increase by 3p to £2.68 an hour; and
- the accommodation offset increases from the current £4.82 to £4.91

Pay As You Earn

Basic PAYE Tools (BPT)

Error messages with Basic PAYE Tools

23 April 2013

HMRC are aware of some common issues that users of the Basic PAYE tools have been experiencing. A list of error messages along with the action required for each message, has been published.

If you receive any of these [error messages](#) be aware that your submission has not been successfully received by HM Revenue & Customs (HMRC).

Tax year end submission 2012/13 v Real Time submissions 2013/14

1 May 2013

HMRC have provided clarification, if clarification is needed at this late stage that year end submissions for the 2012/13 tax year do not have to be made before making your first submission in real time in 2013/14.

Confusion appears to have been caused for some employers because some commercial software, as well as [HMRC's](#) Basic PAYE Tools, requires the 2012-13 end of year report to be completed before switching over to the Real Time Information version and enabling the employer to submit a first Full Payment Submission (FPS).

Pilot employer using BPT for EYU - supplementary update: april 2013

3 May 2013

HMRC have issued a supplementary monthly update for RTI Pilot employers.

This [supplementary edition](#) of the Pilot Employer Update aims to cover the Basic PAYE Tools (BPT) and the Earlier Year Update (EYU). You should read this if you will need to use the BPT to submit an EYU.

Many employers who need to send an EYU will find that their payroll software includes that functionality and if that is the case this update will be of no interest to you.

Please be aware that this section was updated on 3 May 2013:

As an RTI employer on the Pilot you will have met your End of Year filing obligations for 2012-13 if one of the following conditions is met by 19 May 2013:-

- We have received a Full Payment Submission (FPS) for the tax year 2012-13 with the 'Final Submission for Year' indicator or the 'Final Submission due to cessation' indicator completed, by 19 April 2013.

OR

- If you have paid employees during 2012-13 but not submitted an FPS for month 12, you must submit an Earlier Year Update for the tax year 2012-13 by 19 May 2013.

- If you have not submitted an FPS in 2012-13, you must submit one for 2013-14 before you submit the EYU for 12-13.

- However, if you operate an annual scheme, please contact us before taking any action.

OR

- For the tax year 2012-13 only, we have received an Employer Payment Summary (EPS), with the 'Final Submission for Year' indicator, or, the 'Final Submission due to cessation' indicator completed by 19 May 2013.

- If you have made statutory payments or claimed Construction Industry Scheme (CIS) deductions, you should input the relevant year-to-date figures for 2012-13.

- If you made no statutory payments or claimed no CIS deductions during the year, you should leave these fields blank.

This will ensure that you will be in the same position as regards penalties for 2012-13 as employers who were not part of the RTI pilot.

The entire [supplementary update](#) can be read in full at the HMRC website.

Basic PAYE tools experiencing problems submitting PAYE information in real time

8 May 2013

HMRC have issued an update for small employers who are experiencing difficulties submitting their PAYE data in real time using the Basic PAYE Tools (BPT) software issued by HMRC.

This guidance is only for users of the BASIC PAYE Tools software, designed for employers with 9 or less employees who, when trying to send to the Government Gateway, the 'Submission results screen' shows 'initialising submission' in the 'Submission status message' table and does not move on. The submission does not get sent. If you have experienced any other problem, please do not follow this guidance but instead contact HM Revenue & Customs' (HMRC's) Online Services Helpdesk on 0300 200 3600.

Guidance has been provided to help employers who are experiencing difficulties making their submissions, however in the meantime be aware that you should continue to run your payroll using Basic PAYE Tools RTI, paying your employees as normal.

Completing P11d's for 2012-13 using basic PAYE tools (BPT)

20 May 2013

We have recently been receiving queries from members who are wondering how to use HMRC's BPT to complete their P11Ds for 2012-13.

HMRC's BPT no longer contains the facility to complete P11Ds. This is because there will shortly be a new tool for this available on HMRC's website. HMRC hope to make this tool available in June.

Further information is available on [HMRC's website](#).

Employee Share Schemes

Employment-related Shares & Securities bulletin – number 8

17 May 2013

The latest Employment-Related Shares & Securities Bulletin has been published.

This [edition](#) which is published only when sufficient articles or updates are available contains two articles which are:

- Self-certification of employee share schemes and online filing of share scheme forms

Quick response to enquiries – trial completed

Expat News

Update to short term business visitors to UK – PAYE

26 APRIL 2013

HMRC have published updated arrangements relating to short term business visitors to the UK.

As from 6 April 2013 short term business visitor arrangements have been [updated](#). Employers who already have signed agreements in place with HMRC do not need to reapply.

Statutory Residence Test – guidance updated

9 May 2013

HM Revenue & Customs have published guidance aimed at helping an individual to decide if they are resident in the UK for the purpose of paying tax.

[Guidance](#) was updated as a result of recent legislative change, through the Finance Bill, which put the rules determining an individual's tax residence on a statutory basis which is to be known as The Statutory Residence Test (SRT). The rules surrounding The Statutory Residence Test have applied from 6 April 2013.

For most people whether or not they are resident for tax purposes is quite straightforward under the test and their position will not change, however for an individual who has complex circumstances the SRT will provide more certainty about their residence status.

An on-line resource in the form of a [residence indicator](#) is to be launched by HMRC, initially on a Pilot basis in the coming weeks, to help individuals to establish their SRT.

In the meantime more traditional guidance in the form of a [Guidance Note: Statutory Residence Test \(SRT\)](#) and [Guidance Note: Overseas Workday Relief \(OWR\)](#) is available at HMRC website

HMRC6 is also to be updated to reflect the introduction of the Statutory Residence Test.

IR35

IR35 to apply to office holders from 6 April 2013

4 April 2013

In advance of the 6 April 2013 we are being reminded by HMRC that change is afoot with IR35 tax legislation which is being extended to office-holders for the 2013-14 tax year onwards.

This [change](#) applies where an individual supplies their services via an intermediary to perform the duties of an office from and including 6 April 2013. The IR35 rules for National Insurance contributions already apply in these circumstances and will continue to do so.

Further details on this complex subject can be found in [frequently asked questions](#) under [Offices and office-holders](#) e.g. directors' questions 3 and 4.

Please note that HMRC guidance is based on draft legislation published on 11 December 2012. However, it cannot be considered final until the Finance Bill 2013 receives Royal Assent (planned for summer 2013).

PAYE General

HMRC publishes new guidance for Real Time Information

9 April 2013

In the run up to the launch of Real Time Information on Saturday, HMRC has been publishing updated guidance for employers. However, last minute changes meant that some elements of guidance were not available in advance.

HMRC has now published additional guidance covering starter declarations and how employers and CIS contractors should pay HMRC.

Real Time Information: starter declarations from 6 April 2013

HM Revenue & Customs have amended the guidance on the PAYE starter process to reflect customer feedback on starter declarations, to help increase accuracy for individuals with a P45 and more than one job.

In such cases, instead of selecting statement C and operating tax code BR, the employer should select statement B and operate the tax code on the P45 - unless the tax code on the P45 is BR, OT or D prefix - in which case statement C would still apply.

Individuals without a P45, or with an old P45, will continue to complete the starter declaration to confirm their employment situation.

This is effective from 6 April 2013.

You can read the full guidance on employees starting by following the link below.

[Employee starting](#)

Changes to how employers and CIS contractors pay HMRC

From 6 April how employers pay PAYE, Class 1 National Insurance contributions, Construction Industry Scheme (CIS) or Student Loan deductions to HM Revenue & Customs (HMRC) is changing.

Change of bank account details

From the 2013-14 tax year all employers will make their payments into a single HMRC bank account. This change only affects employers who

currently make payments into HMRC's Shipley bank account by Bacs Direct Credit, Faster Payments by online/telephone banking and CHAPS. Employers using the Government Banking Service (GBS) are not affected by this change.

From month 1 of the 2013-14 tax year all employers should pay to HMRC's Cumbernauld bank account.

PAYE payments for the tax year 2012-13 and earlier are not affected by this change.

If you have previously paid into HMRC's Shipley account please make sure you update any templates or instructions you have with your bank.

[Find out the correct bank account details](#)

End of year payments

Previously employers used month 13 to make any balancing end of year payments for PAYE, Class 1 National Insurance contributions, CIS or Student Loan deductions to HMRC. Any balancing end of year payments from 2012-13 onwards should now be paid to HMRC using month 12. You should now only use month 13 to pay any Class 1A National Insurance owed on your P11D (b).

[Check your reference for PAYE/Class 1 NIC or Class 1A NIC](#)

You can find general guidance on preparing to operate PAYE in real time on [HMRC's website](#).

HMRC issues helpbook explaining how to use BPT to submit an EPS

16 April 2013

HMRC have published [guidance](#) on how to use their Basic PAYE Tools (BPT) to perform the Employer Payment Summary (EPS).

Not all commercial payroll software products have the functionality to submit an EPS. BPT can be used by those employers whose payroll software does not include this facility. Even the very largest employers will be able to use the BPT to submit an EPS should they need to do so.

Real Time Information and national Insurance Number Verification Requests (NVRs)

15 April 2013

HM Revenue & Customs (HMRC) has received a number of queries from employers and employees about verifying or obtaining National Insurance numbers for the purposes of reporting PAYE in real time.

Firstly, employers are receiving rejections for National Insurance number Verification Requests (NVRs). These rejections are correct and are being made because the employer is sending the request before they have made their first Full Payment Submission (FPS).

HMRC's guidance [Making sure you use the correct National Insurance number](#) clarifies this - 'You cannot send an NVR until you have started to send PAYE information in real time - wait two weeks after sending your first FPS before sending an NVR.'



Secondly, HMRC have been receiving calls from employees who have been told that their employer insists that all employees must have a National Insurance number for when they submit their real time information (or RTI) returns.

Whilst HMRC wants employers to provide correct National Insurance numbers for their employees in their PAYE submissions wherever possible, there will be occasions where a National Insurance number isn't available (for instance, when an employee is under 16 years old).

In these cases the guidance in 'Making sure you use the correct National Insurance number' is clear that 'You must leave the National Insurance number field blank for that employee. You must not use an incorrect or 'dummy' National Insurance number.'

What is essential is that, when a National Insurance number forms part of a real time PAYE submission, it is correct.

Toolkits aimed at reducing common errors

11 April 2013

HMRC has published the updated Expenses and Benefits from Employment Toolkit in addition to the National Insurance Contributions and Statutory Payments Toolkit.

The purpose of the [toolkits](#) is to assist agents when completing their clients' returns and forms.

HMRC need [feedback](#) from you about your experience of using the toolkits. To help you in providing feedback a new online feedback form has been introduced - your comments will be used to help develop and prioritise future changes and improvements to the Toolkits.

P46 (short) updated

10 April 2013

HMRC have updated form [P46 \(short\)](#) to take account of the occurrence whereby an employee is repaying their student loan by agreed monthly payments to the Student Loans Company.

Since 6 April 2013 the P46 (Short) cannot be submitted to HMRC and remains available primarily to aid employers with the collection of the starter declaration information. The [Starter checklist](#) also contains the same information and declarations.

Guidance on dealing with new starters can be found at [notifying and getting new employee information right](#).

Actions to take if an employee has left and you haven't yet submitted a P45 for 2012-13

10 April 2013

We have had several enquiries from members who have been unable to submit a P45 for an employee who left employment at the end of 2012-13 tax year?

Now that RTI is live P45s cannot be submitted.

If the employee has left, has not been included on your EAS and there are no further payments to be made, you do not need to take any further action. If, the employee has been included on your EAS then including a leaving date on your next FPS – this will remove them from HMRC's records.

If the employee has left but not yet received their final payment (for example, employee finished on 31 March but the company pay date is 15 of the month and the final payment is still outstanding) this would correctly be considered to be a month 1 payment so the employee should be included on the EAS and the FPS should show the date of leaving as being the final date of payment.

Termination payments and payments made after leaving should be dealt with in accordance with the guidance on [HMRC website](#).

HMRC have published specific guidance to help employers facing this transitional issue which is impacting, in this instance, on their submission of [P45s & P46s](#).

Change to employer helpline numbers at hmrc

23 April 2013

Some HMRC helpline numbers for employers are set to change as from 23 April 2013 however, existing numbers will continue to be available for a further period of 18 months. For many of us the new numbers will reduce the cost of calling these helplines. You can check the exact cost by calling your telephone service provider.

The following helplines are changing their telephone numbers to those shown:

Online Services Helpdesk - 0300 200 3600

Billpay Plus - 0300 200 3601

Employer Helpline - 0300 200 3200

New Employer Helpline - 0300 200 3211

If you have hearing or speech impairments, the new text phone number for the:

Online Services Helpdesk is 0300 200 3603

Employers Helpline is 0300 200 3212

HMRC Employer Bulletin 44

17 April 2013

HMRC have published issue 44 of the [Employer Bulletin](#).

As you would expect this edition covers the subject of End of Year Returns, RTI and Reporting 2012-13 Expenses and Benefits.

However, amongst other items of interest the Employer Bulletin also provides a timely and useful reminder, if one were needed, of the importance of checking that your employees have the right to live and work in the UK – before they begin to work with you

Payslip booklets posted late is no excuse for late payment

2 May 2013

HMRC have apologised for the late postings of payslip booklets for the 2013/2014 but have highlighted that not receiving your booklet will not be an acceptable excuse for not making your payment on time.

Back in March [HMRC](#) issued a timetable which informed employers when they might expect to receive their payslip booklets for 2013-14. The last booklets were to be issued on 12 April 2013, and employers were advised to wait until 27 April before contacting HMRC if they had not received a new booklet.

HMRC apologises to employers but the last booklets were actually sent on Tuesday 30 April 2013 and may take up to three weeks to reach employers.

In the meantime, and hopefully this warning won't have come to you too late, please don't call HMRC to ask for a replacement booklet as you wouldn't receive it before the booklet which is now on its way to you.

Annual schemes criteria

13 May 2013

HMRC have published a reminder that for an [Annual Scheme](#) to be accepted as such it must fulfil certain criteria and HMRC will check past payment histories to see whether the request is appropriate.

To be considered as an Annual Scheme, a scheme must meet the following requirements:

- all the employees are paid annually
- all the employees are paid at the same time/same date
- the employer is only required to pay HMRC annually

Be aware that, in reviewing requests for a scheme to be treated as annual, HMRC will check the employer's payment history to see whether such a request is appropriate. Employers requesting annual schemes where it is clear that they should be paying HMRC monthly will be considered non-compliant and liable to potential penalties.

Paying HMRC correctly in real time

17 May 2013

HMRC have published an update on how to ensure you continue to pay the correct amounts.

The [update](#) reminds us, if a reminder is needed, that due dates for payment remain unchanged.

Cheque payments need to be received by HMRC by the 19th of the month following the end of the tax month of deduction, and cleared electronic payments by the 22nd. This means if you pay monthly, HMRC should receive the PAYE you deducted between 6 April and 5 May 2013 by 19 or 22 May 2013 depending on your method of payment.

To calculate the payment in full you must include:

- the total amount shown on your Full Payment Submission(s) (FPS) for a tax month, including any corrections or adjustments submitted on or before the 19th of the following month
- less the amount shown on any Employer Payment Summary (EPS), also submitted on or before the 19th of the following month

So, for example, the payment due from you for the month of April (the period between 6 April and 5 May 2013) will consist of your FPS, any amendments to those, plus any EPS, received by 19 May 2013. Amended FPS and EPS received after this date will be taken into account in your charge for the following month.

You should also use an EPS to notify HMRC that you have no FPS to send as, without it, they will instead calculate what they believe is due and expect you to pay it in full!

It is important you pay using the right payslip or, if paying electronically, you use the right reference number.

You need to pay using your 13 character Accounts Office reference - for example 123PA00012345 - and adding to the end the tax year ending and month number your payment relates to. So, to pay 2013-14 month 01 you would add 1401 making your reference 123PA000123451401.

If you don't give the right reference number you could be contacted unnecessarily about an apparent debt because your payment has been delayed.

Full details of the [Paying HMRC](#) update can be found at the HMRC website.

Tax codes being issued in real time?

21 May 2013

CIPP have recently received reports from members who have been issued incorrect tax codes for some employees which omit benefits that were previously (correctly) taken account of. HMRC have now issued an update which explains why these incorrect tax codes appear to have been issued to employers and what action should be taken if you are affected by this issue.

HMRC has issued information which advises employers on how to go about correcting this problem and for employers who have yet to submit

and Employer Alignment Submission (EAS) to be aware that they should ensure that they send HMRC details of all employees on their payroll, or, if they are sending their EAS in parts, indicate how many parts they will be sending.

Where an employer:

- has submitted only part of their employee payroll on their Employer Alignment Submission (EAS) and subsequently includes the remainder of their employees on a subsequent Full Payment Submission (FPS), or
- submits their EAS in parts, but does not indicate on the first EAS that they will be submitting in parts, HMRC treats the first part as the full alignment submission, or
- an employer uses their first FPS to align (rather than an EAS) and does not include all employments on that first FPS

Once alignment is complete, any live employments not included by the employer will be ceased with a date of leaving of 5 April 2013.

HMRC have investigated this issue and have identified that in all the examples that have been seen, when the employer sends a subsequent FPS, HMRC will create a new employment. This new employment record will not contain any previously reported benefits for the individual employee's tax code and therefore the tax code that will be issued, for what appears to HMRC to be a new employment record, will be incorrect.

Employers [should not operate the incorrect codes](#) but instead should continue to use the previous code.

If you or your employees happen to be unfortunate enough to be impacted by this and receive a tax code which has increased as a result of the benefits having been removed, you should contact HMRC's Taxes Helpline on 0845 300 0627 to get the benefits added back in.

Pay & Conditions

Performance Related Pay – departmental advice

18 April 2013

Schools in England have been sent advice by the Department for Education along with a revised version of School Teachers' Pay and Conditions document.

As from 1 September 2013, Schools will be able to link teachers' pay to performance allowing them to pay good teachers more. This follows recommendations from the independent School Teachers' Review Body, which last year called on the government to link teachers' pay more closely to their performance.

By this September every school will need to have revised its pay and appraisal policies setting out how pay progression will in future be linked to a teacher's performance. The first performance-linked pay increases will be made from September 2014.

The new arrangements provide increased flexibility for schools to develop pay policies tailored to their particular needs. These freedoms will support heads in attracting teachers in specific subjects based on their school's needs. It will also help schools across the country recruit and retain excellent teachers.

The [Departmental Advice](#) highlights factors schools could consider when assessing teachers' performance. This includes a teacher's:

- impact on pupil progress
- impact on wider outcomes for pupils
- contribution to improvements in other areas (eg pupils' behaviour or lesson planning)
- professional and career development
- wider contribution to the work of the school, for instance their involvement in school business outside the classroom

Schools could consider evidence from a range of sources, including self-assessment, lesson observations, and the views of other teachers and of parents and pupils.

It is up to each school to decide how best to implement new pay arrangements – and each school must make the link between pay and performance clear.

Heads and school leaders are responsible for developing arrangements for performance-linked pay. Governing bodies will ensure schools adopt pay policies which clearly set out arrangements for linking appraisals to pay progression. School leaders will be responsible for explaining to teachers how appraisal outcomes lead to pay decisions.

A Department for Education spokesperson said:

"It is vital that schools can recruit and reward the best teachers. The advice will help schools to review their pay policies and put in place arrangements that enable them to pay the best teachers more."

The revised version of [School Teachers' Pay and Conditions document](#) is available at the website for the Department for Education.



Pensions

Automatic Enrolment

Take a look at TPR Automatic Enrolment registration

12 April 2013

The Pensions Regulator is encouraging employers to take a look at a practical demonstration of how to register online.

Automatic enrolment legislation requires all employers to register with The Pensions Regulator within four months of their staging date, to confirm that they have met their duties. Failure to register on time may result in enforcement action for non-compliance. Registration is a secure, online process accessed through the Government Gateway.

Sarah Howitt-Jones, Registration, data and information service manager at the regulator gives a [practical demonstration](#) of how to register online, where you can learn:

- why employers are required to register
 - how to register on behalf of an employer
 - what information must be provided
 - how to use the Government Gateway to access online registration
-

TPR update guidance to take account of new thresholds

11 April 2013

The Pensions Regulator has updated its guidance to take account of the new earnings thresholds for 2013-2014 tax year.

The [detailed guidance](#) is aimed at professional advisers, large employers with in-house pension's expertise and those with a sound knowledge of pensions. The guidance provides detailed help with implementing the new employer duties.

Affected documents are identified as 'UPDATED'. We have provided a breakdown of the [earnings thresholds](#) by pay reference period for the current and previous tax year.

The TPR plan to make further, more extensive updates to all the guidance in line with the outcome of the consultation on draft regulations and other proposed changes, currently scheduled for publication by the Department for Work and Pensions (DWP) in July 2013.

How do you plan to beat the Auto Enrolment capacity crunch?

8 May 2013

Many employers plan to rely on their current providers to provide them with Auto Enrolment solutions, however, these plans are being brought in to question due to predicted 'capacity crunch' facing the pension industry?

Thank you to [Pensions Week](#) for their report of this story

Many businesses intend to rely on their current pension or payroll provider to assist with auto-enrolment, according to our experience so far. But how much detailed analysis has gone into the feasibility of this approach is open to question.

Why should employers think differently, especially if they have had a relationship with their current suppliers or administrators for some time? Sadly, current experience shows this reliance may not deliver the required or expected results.

It is now generally accepted that the UK pension industry will face capacity issues in delivering auto-enrolment.

Failing to engage with your current scheme suppliers and administrators from an early stage is a very risky scenario for employers. Being turned away by them when the time for delivery arrives and leaving no auto-enrolment option on the table creates additional costs, time and effort.

Providers now look at the profitability of a potential scheme over the longer term much more closely than ever before. We have already seen evidence of many employers being turned away by their current scheme provider.

Many companies in this scenario may end up managing more than one scheme with more than one supplier or administrator, which creates significant additional work and costs.

Two or more schemes mean extra administration work as contributions are scheduled and paid to different sources. It begs the question: how will the employer's compliance with the reform's rules be monitored in this scenario?

Does this mean the employer will need to use more than one software package to help with the ongoing assessment requirements and communications, potentially doubling up on both cost and effort?

Also, many providers will not hold data relating to anything other than their own schemes. While this fact is understandable it does not help the employer, who is left with no option but to cope with a multi-scheme scenario and all the additional in-house administration that will be required.

This scenario highlights just one reason why employers could consider using standalone third-party software. It is also one of the reasons why the industry is seeing a resurgence of mastertrusts, which allow the employer to take more control of not only the structure, design and employee communications but also the scheme default investment strategy.

Where supply can meet demand, other delivery and process issues have made the process much more complicated than it should be. So far providers have had a take-it-or-leave-it approach to auto-enrolment. We need to push back and demand solutions that can meet minimum criteria, such as:

- coping with multiple pay reference periods;
- managing their opt-out processes effectively;
- flexibility when the employer is importing data for the assessment processes;
- dealing with multiple postponement periods for different categories of workers – an issue for payroll providers;
- integration with other arrangements such as legacy schemes or other provider's systems;
- dealing with complicated or multiple contribution structures such as those required for TUPE-transferred staff or 'grandfathered' arrangements;
- offering adequate levels of security with their data transfer processes.

This list of issues needs addressing urgently. Scheme professionals need to seek out the suppliers who can provide them with a full service that includes consultancy and auto-enrolment project management, while meeting all of the compliance and regulatory requirements.

Auto-enrolment is an issue that requires their immediate attention. Are we getting the message across as an industry? Are we offering fit-for-purpose answers? Time will tell but there are certainly early issues which are concerning.

NEST (National Employment Savings Trust)

NEST introduces new employer pages to website

8 May 2013

As part of a number of planned changes NEST have updated the Employer pages of their website.

NEST have looked to improve their web content in an aim to provide [Employers](#) with more help and guidance on the subject of Auto Enrolment.

Pensions General

Improvements to HMRC pensions online

28 March 2013

HMRC have made a number of enhancements to Pension Schemes Online, which will be available from 6 April 2013.

The online service will be unavailable for a few days around this date to allow these changes to be made. Please see the [service availability](#) pages at HMRC website for exact details.

The [enhancements](#) impact on:

Annual allowance scheme pays

From 2011-12, the annual allowance for tax relief on pension savings for individuals was reduced, resulting in more people being liable to an

annual allowance charge. Where an individual has an annual allowance charge liability above £2,000 they can, in certain circumstances, elect for the pension scheme to pay part or all of the charge on their behalf.

Scheme administrators must report the tax charges using the quarterly Accounting for Tax (AFT) return. For annual allowance charges arising in 2011-12 this would mean reporting by the quarter ending 31 March 2014 and filing the AFT and paying the tax charge by 15 May 2014. Administrators opting to pay part or all of the annual allowance charge will also need to specify the tax year to which the charge relates when completing the AFT.

Transfers to qualifying recognised overseas pension schemes (QROPS)

Since 5 April 2012 all transfers to a QROPS have been reported by scheme administrators on form APSS262.

Accordingly, two questions on the Event Report which relate to QROPS will be removed from Event Reports for 2013-14 and later as they will no longer be relevant. Event Reports for 2012-13 and before will retain these questions.

Scheme registration of investment regulated reportable changes

Scheme administrators registering a scheme at present can specify that the scheme is investment regulated and that all of those investments held by the scheme comprise contracts or policies of insurance.

From 6 April 2013 scheme administrators registering a new scheme will only be asked to specify whether the scheme is investment regulated or not. The corresponding question about insurance has been removed from both the registration process

Government response to OTS recommendations in review of pensioner taxation

11 April 2013

The OTS have published the government responses that have been made to their recommendations following the OTS review of pensioner taxation.

Back in January we reported news of the publication of the [Review of Pensioner Taxation: Final Report](#) by the Office of Tax Simplification. The report contained a number of recommendations which the government have recently [responded to](#).

The [response](#) can be read in full at the website of the OTS, however it confirmed that HMRC will be looking in to providing some form of annual tax statement to pensioners. It is likely to be rolled out as an online service in line with HMRC digital strategy.

HMRC will also review how composite PAYE coding notices could be delivered and will keep the OTS updated.

If you were thinking that DWP appear to have got off lightly in this response, they have formed a steering group with aims to review pensioner communications.

Confirmation was included in the response that the Blind Persons Allowance will not be abolished, in favour of providing a grant, however HMRC will explore what steps can be taken to make the process for claiming the allowance easier.

Pension industry business update issue 5

11 April 2013

National Insurance Services to Pensions Industry have published an update for March 2013.

The [update](#) includes information about:

- NISPI Website
- Scheme Cessation Current Issues
- Change of contracting-out status
- Forms CA9174 & CA9175
- Shared workspace membershop2013 GMP increase and section 148 orders
- Single-tier pensions
- Change of GMP revaluation rate on buy-out
- National Insurance and Pay As You Earn Service (NPS) Processing Dates 2013-14
- COCIS update

Pension liberation – the issues and the tax implications

23 April 2013

HMRC have provided some information about the subject of Pension Liberation which aims to explain what Pension Liberation is and what the significant tax implications are, amongst other things, the guidance highlights that there are no legal loopholes for liberating your pension.

[Pension Liberation](#) - the cost of accessing or unlocking your pension early, looks to explain fully how it works and most importantly highlight the risks that you are taking by deciding to take some or all of your pension early.

As Pension savings are intended to provide for retirement, there are strict rules as to when money can be taken out of a pension scheme before you turn 55 and should you decide to transfer and take some or all of your pension savings early there will be a substantial tax charge to pay.

Unscrupulous firms are using misleading information to promote personal loans or cash incentives in an attempt to entice savers to access their pension pots early. Very often they say there is a legal loophole so you don't pay tax. There is no legal loophole.

Automatic transfers: consolidating pension savings

24 April 2013

Plans have been announced that aim to help employees take their workplace pension with them when they change job.

Introducing automatic transfers is projected to reduce the proportion of people reaching retirement with five or more dormant pots from a quarter to one in thirty.

The proposal will be included in the forthcoming Pensions Bill.

Minister for Pensions Steve Webb said:

"Instead of having lots of small pension pots all over the place, we want people to have a "big fat pot" which will buy them a better pension. When people change job, they often leave behind a pension pot which becomes forgotten and which can even attract higher charges once they leave the firm."

"We want to make it the norm that when you move job your pension rights can move with you if you wish. This will reduce the costs of providing pensions and will help people to be much more engaged with their pension savings."

Initially transfers will only be for money purchase schemes. Those in defined benefit occupational pension schemes will not be included at this stage.

Pension scheme providers and administrators will operate the transfer but individuals will be provided with information and have the right to opt out of the process.

Full details of the proposals can be read [Automatic transfers: consolidating pension savings](#).

Multiple regulators risk creating gaps in governance standards

26 April 2013

The Work & Pensions Committee have called on the government to reassess the case for establishing one body with sole responsibility for regulating workplace pensions.

[The Report](#) calls on the Government to reassess the case for establishing one body with sole responsibility for regulating workplace pensions. Noting concerns over current gaps in regulation and the potential for further gaps to arise as a result of now having three regulators with a role to play, the Report argues that a single regulator is necessary to ensure that all members of workplace pension schemes are adequately and consistently protected.

Commenting on the Report, Dame Anne Begg MP, Chair of the Work and Pensions Select Committee, said:

"Under auto-enrolment millions of people will be brought into pension saving for the very first time. The need for rigorous pension scheme governance has never been more vital.

"It is essential that all members of workplace pension schemes are protected from poor governance, irrespective of the particular scheme they are in. We do not believe this is always the case under the current regulatory system and evidence from the regulators failed to convince us otherwise. On the contrary, we are concerned that current gaps in regulation will be exacerbated by the fact that we now have not two, but three regulators involved – The Pensions Regulator; and the new Financial Conduct Authority and Prudential Regulation Authority, set up to replace the FSA.

"The Government should reassess the case for establishing one body with sole responsibility for regulating workplace pensions. This body must be invested with sufficient powers to ensure that all members of workplace pension schemes are given the level and consistency of protection they need.

"The plethora of costs and charges that can be applied to pension pots are not only confusing, they can seriously impact on an individual's retirement income. We are particularly concerned about member-borne consultancy charges and those charges applied to deferred members – people who stop contributing to their pension scheme. Neither can be justified; both should be banned.

"The trend towards lower pension scheme charges is welcome. However, a good average is not sufficient and we remain concerned by the potential for consumer detriment in schemes that persist in retaining high charges. The Regulator should carry out an urgent review of these outliers and take action if it considers this necessary. The Government should also regularly review its policy on capping charges for auto-enrolment schemes and must act without hesitation if it becomes apparent that some members are at risk of detriment."

"Consumers are also continuing to lose out when they buy annuities because pension providers are not doing enough to ensure people are aware that they can shop around for the best annuity rate rather than being obliged to buy an annuity from their pension provider. We believe that it should be mandatory for pension providers automatically to supply their customers with a comprehensive breakdown of all the annuity rates available to them from different providers."

The quality of communications between pension providers, employers and scheme members will play an important role in determining future outcomes from private pension saving. The Report calls on Government, regulators, and the pensions industry to work together to agree a communications format that sets out clearly the basic, essential pieces of information which pension schemes should provide to their members.

Dame Anne Begg said:

"The current poor standard of communications is a serious cause for concern and needs to be addressed. This is not a case of the more information the better. It is about providing only the information that is relevant to employers and employees, and presenting it as clearly and simply as possible, rather the current deluge of complicated documentation which pension scheme members currently receive."

Pensions come under the spot light in the Red Tape Challenge

26 April 2013

Following an examination of the regulations covering private pensions by the Department for Work & Pensions, the Pensions Minister has now unveiled a set of measures aimed at easing the administrative and regulatory burden on employers.

Whilst the review found the legislation to be largely fit for purpose, a number of stakeholders highlighted key areas in need of improvement. These included disclosure of information rules which have built up over the past 25 years governing what, when and how pension schemes communicate with their members.

Pensions Minister Steve Webb said:

"We took a forensic look at regulations covering private pensions as part of our work on the Red Tape Challenge, and the good news is we found they are mostly working well. But far from resting on our laurels, we are finding new ways to cut red tape and ease the burden of regulations on employers."

"Our changes will [save businesses](#) millions of pounds, by streamlining and improving rules governing what, when and how pension schemes must communicate with their members."

"We are also giving the Pensions Regulator a new objective to ensure a company's need for sustainable growth is part of its pension scheme funding negotiations."

Key outcomes of the DWP's [Red Tape Challenge](#) work include:

- Simplifying disclosure of information rules, to harmonise requirements across different schemes and extending the use of electronic communication, such as email or websites
- A new statutory objective for the Pensions Regulator better balancing the need to protect members' benefits with the need for sponsoring employers to be able to grow in a sustainable way.
- More work to see how the current processes relating to employer debt that cause difficulties for charities and others participating in multi-employer schemes could be improved.
- Considering whether to make indexation for future accruals discretionary as part of on-going work to encourage risk sharing through new 'Defined Ambition' pensions.

The Pensions Advisory Service adds new material

7 May 2013

In recognition of the growing number of pension savers The Pensions Advisory Service (TPAS) have updated and added to, the material that can be found at their website to help the growing number of users and visitors accessing information and publications.

The newly revised series of factsheets provide more detailed information on topics such as income drawdown, the annual allowance and taking lump sum payments. These spotlights can be found on the [publications](#) page.

A series of [short videos](#) have also been added to help inform savers on the subject of automatic enrolment and the importance of saving for retirement.

Marta Phillips OBE CA, Chief Executive of TPAS said: "I am delighted this work has been completed as it gives us the foundation we need to make it more relevant for people seeking information and guidance from TPAS. Users of the website and social media links can look forward to further developments which will enable them to find the information they need."

Alison Bailey, Head of Policy and Technical Development at TPAS said: "With over 3 million visits to our website in the last year, we know that more and more people are seeking help and support with their pensions. We hope that the new content will make it easier for people to find the information they need, as well as encourage more people to save for retirement"

The Pensions Advisory Service (TPAS) is an independent non-profit organisation that provides free information, advice and guidance on the whole spectrum of company, personal and stakeholder schemes.

The Pensions Regulator – annual funding statement 2013

8 May 2013

The Pensions Regulator (TPR) has published its [2013 annual funding statement](#) to help pension scheme trustees and sponsoring employers to agree valuations and deficit recovery plans.

The Pensions Regulator has published its 2013 annual funding statement to help pension scheme trustees and sponsoring employers to agree valuations and deficit recovery plans that protect the interests of retirement savers, whilst also being affordable for employers facing challenging economic conditions.

The regulator's chair Michael O'Higgins said:

"I want to see pension trustees agree long-term strategies with employers that protect the interests of retirement savers, whilst also enabling viable businesses to thrive and grow. We expect them to mitigate the risks to their scheme, but this does not require them to be overly prudent."

"As our analysis shows, circumstances differ greatly between schemes. Many are in a relatively strong position and our starting point will be that schemes should consider whether to maintain present levels of deficit contributions as agreed at the last valuation. But some employers will struggle to pay that level of contributions - and may need to make use of the flexibility within the system."

The 2013 statement makes clear that trustees can use the flexibility available in setting the discount rate to calculate future liabilities (known as 'technical provisions'), based on the yield held by assets of the scheme and / or the yield on Government or high-quality bonds, to best fit their circumstances.

Full details of the TPR [press release](#) can be found at the Pensions Regulator website.

HMRC - Annual Allowance and Pension Protection fund technical update

9 May 2013

HM Revenue & Customs have published technical update and impact assessment information as a result of changes to secondary legislation which affect the Annual Allowance (AA) and Pension Protection fund (PPF).

This [Annual Allowance – technical improvements](#) will impact upon members of registered pension schemes who have savings for a tax year in excess of the Annual Allowance. Scheme Administrators of registered pension schemes along with advisers of clients who are members of registered pension schemes will also be affected.

This legislative change has become necessary to increase the flexibility of the Annual Allowance 'scheme pays' facility along with making an addition to the information that scheme administrators must provide to HMRC in connection with this facility.

The new regulations will come in to force on 31 May 2013. The change to scheme administrators reporting requirements will apply to returns made on or after this date, and the easement to the scheme pays rules will have retrospective effect from 6 April 2013.

The [Pension Protection Fund – miscellaneous amendments](#) will affect some individuals who are, or who will, receive 'pension' compensation from the Pension Protection Fund (PPF) in place of pension benefits originally due from the registered pension scheme.

Regulations will be introduced to ensure that pension compensation payments made by the PPF which are subject to a pension compensation sharing order, or are lump sums below certain limits (trivial commutation lump sums) will be taxed in the same way as if the payment had been made by the original registered pension scheme.

The regulations will also ensure that certain small value lump sum payments to be made in respect of money purchase funds will be treated for tax purposes in the same way as trivial commutation lump sums.

The legislation will apply from 31 May 2013

Full details of both amendments and the impact assessments can be found at the HMRC website.

DWP - Pension Stakeholders newsletter

13 May 2013

Following a recent flurry of announcements and publications affecting the world of Pensions the DWP's Pensions Stakeholder Team have circulated a Newsletter update.

Pensions Bill - As you will have seen, in the Queen's Speech at the State Opening of the 2013 - 2014 session of Parliament on Wednesday [8 May 2013] the Government announced its intention to introduce the Pensions Bill. The Bill was introduced into Parliament yesterday [9 May 2013] and has been published today [10 May 2013]. Steve Webb, the Minister for Pensions, tabled a Written Ministerial Statement this morning outlining the key elements in the Bill. The Written Ministerial statement can be found at: <http://www.parliament.uk/documents/commons-vote-office/May-2013/10th-May-2013/9.DWP-Pension-Reform.pdf> and the full Pensions Bill, and explanatory notes, can be found at <http://services.parliament.uk/bills/2013-14/pensions.html>



In addition to the publication of the Pensions Bill we have also published a number of supporting documents. I've provided direct links to each document below, but they are also available on the Pensions Bill webpage on GOV.uk <https://www.gov.uk/government/organisations/department-for-work-pensions/series/pensions-bill>

Pensions Bill Impact Assessment - The impact assessment has been revised to factor in changes since we published the draft Bill Impact Assessment in January. The Impact Assessment can be found at <https://www.gov.uk/government/publications/pensions-bill-impact-assessment>

Delegated Powers Memorandum - This identifies the provisions for delegated legislation in the Bill, explains the purpose of the powers, why they

are left to delegated legislation and the parliamentary procedure selected for the exercise of these powers. The Delegated Powers Memorandum can be found at <https://www.gov.uk/government/publications/pensions-bill-delegated-powers-memorandum>

Response to the Work and Pensions Select Committee's report - Today, the Government has published its response to the Work and Pensions Select Committee's report of the pre-legislative scrutiny on Part 1 of the draft Pensions Bill. The Department would once again like to thank all of those who submitted written evidence to the Committee and those who gave Oral Evidence. The Government's response can be found at <https://www.gov.uk/government/publications/part-1-of-the-draft-pensions-bill-resonse-to-select-committee-report>

Main changes to the Bill since publication in draft - There have been some changes to Part 1 of the Bill since it was published in draft in January 2013 and these are detailed in the Annex to the response to the Work and Pensions Committee report. The most significant changes are in response to recommendations from the Committee, to specify in the Bill both the implementation date for single tier and that the Minimum Qualifying Period for the single-tier pension will not exceed ten years.

A number of additions have also been made to the Bill - The Bill and supporting products provide more information about the various measures but in brief these are:

- provision for a system of automatic transfers of small pension pots, details of which were set out in [Automatic transfers: consolidating pension savings](#) which was published on 23 April;
- a measure to withdraw short service refunds for people who leave a money purchase occupational pension scheme within two years;
- the introduction of a new statutory objective for the Pensions Regulator in relation to its functions under Part 3 of the Pensions Act 2004 (scheme funding), to minimise any adverse impact on the sustainable growth of an employer;
- a power to require pension levies to be paid in respect of past periods (for those schemes covered by a Crown guarantee, where an exemption from payment of the levies would give rise to incompatible state aid); and
- a number of additional amendments to the Pensions Act 2008 and the Pension Schemes Act 1993 in relation to automatic enrolment, designed to address technical issues and clarify existing powers ahead of the next major staging milestone for automatic enrolment in spring 2014:
 - technical changes to transitional arrangements for hybrid schemes to ensure they operate as intended where a scheme offers both money-purchase benefits and defined benefits (as announced in December 2012);
 - a power to make regulations to exclude specified groups of individuals from automatic enrolment where it is clear that automatically enrolling them would run counter to policy intent (e.g. people with enhanced or fixed tax protection);
 - an amendment to section 16 of the Pensions Act 2008 to provide a broader power to prescribe, in regulations and statutory guidance, how any limitations imposed on charges in qualifying schemes would apply in practice. As announced this morning, we intend to publish a consultation this autumn and this amendment to the primary legislation will enable the Government to take targeted and effective action accordingly;
 - an amendment to section 124 of the Pension Schemes Act 1993 so that the protection offered within it to employees in respect of, or on behalf of, whom pension contributions remain unpaid at the time of their employer's insolvency is extended to workers and agency workers.

Consultancy Charges - Included in Steve Webb's Written Ministerial Statement this morning [10 May 2013] is the Government's intention to ban consultancy charges in automatic enrolment schemes. This follows a review undertaken by the department over the last six months. The Minister also announced the Government's intention to publish a consultation this autumn. The consultation will set out proposals including a cap on default fund charges in Defined Contribution schemes.

HMRC publishes Pensions Newsletter number 57

14 May 2013

HMRC has published the May 2013 edition of the HMRC Pension Schemes Services Newsletter. Covering topics including:

- Changes to the Annual Allowance and Lifetime Allowance
- Pension Liberation
- Trivial Commutation and similar payments
- Improvements to Pensions Guidance; and
- Pension Scheme Registration

It is available to view on [HMRC's website](#).

HMRC - Draft Statutory Instrument published and comments are invited

17 May 2013

HMRC have published, for comment, a draft Statutory Instrument and draft Explanatory Memorandum that makes a number of amendments to the Registered Pension Schemes (Provision of Information) Regulations 2006 ('the Regulations') (SI2006/567).

The changes set out in the [draft Statutory Instrument](#) will make changes to the information that pension scheme administrators and individuals are required to report, in particular in connection with transfers to qualifying overseas recognised pension schemes and fixed protection 2014.

[Draft Explanatory Memorandum](#) and [Tax Information and Impact Note](#) have also been published.

Questions or comments on this draft Statutory Instrument, these should be sent by email to [Pension Policy](#) by 14 June 2013.

State Pension

Work and Pensions select committee issues report

5 April 2013

The recent [report on the Single – tier State Pension \(STP\)](#) from the Work and Pensions Select Committee has criticised the government's decision to bring forward the implementation date to April 2016.

The report recognises the clarity and simplicity that the new system will eventually bring. The STP is intended to reduce reliance on means-tested benefits. Pension Credit will still be available but the Savings Credit element will be abolished, reducing the numbers of people eligible for means-tested benefits.

However, one of the most significant changes the reform will bring is that contracting-out will also end. The report points out that when the pensions industry and employers had indicated that they were largely satisfied with their involvement in the development of the contracting –out provisions of the draft Bill, this was when they thought they had until 2017 to prepare for the changes. Bringing things forward by a year may well present them with a more significant challenge and it is vital, says the report, that the DWP continues to work closely with pension schemes and employers on the detailed arrangements for ending contracting-out.

DWP plans mean that, for employers, the end of contracting-out will mean an increase in NICs paid for each contracted-out employee of 3.4% of relevant earnings. DWP acknowledges that employers are likely to want "to reduce the level to which they must fund their [pension] scheme by the same amount as the increased National Insurance contributions" when contracting-out ends, either by reducing future pension benefits or by increasing employee contribution rates to pension schemes, or a combination of both.

However, some private sector employers are limited by their scheme rules in the extent to which they are able to modify scheme benefits and in many cases scheme rules can only be changed by the scheme trustees or with the trustees' consent. As the changes are likely to be seen by trustees as detrimental to scheme members, they may not be willing to give their consent.

Provisions in the draft Bill would give employers a statutory power to amend the terms of their workplace pension schemes to increase member contributions or to reduce future service benefits, without trustees' consent if necessary.



Compliance

If you are a tax cheat – there is no safe haven - say HMRC

9 May 2013

HM Revenue & Customs have published a press release confirming that it is working with the US and Australian tax administrations (the IRS and ATO) on data which reveals extensive use of complex offshore structures to conceal assets by wealthy individuals and companies.

The 400 gigabytes of data is still being analysed but early results show the use of companies and trusts in a number of territories around the world including Singapore, the British Virgin Islands, the Cayman Islands, and the Cook Islands. The data also exposes information that may be shared with other tax administrations as part of the global fight against tax evasion.

So far HMRC has identified over 100 people who benefit from these structures and a number of those individuals had already been identified and are under investigation for offshore tax evasion. They have also identified more than 200 UK accountants, lawyers and other professional advisors who advise on setting up these structures who will also be scrutinised. UK residents who use these offshore structures should review their taxation arrangements, and seek advice if necessary, to ensure they are compliant with UK tax law. HMRC encourages voluntary compliance and early disclosure of tax irregularities. Failure to do so may result in a criminal prosecution or significant financial penalties and the possibility of their identity being published.

Chancellor of the Exchequer George Osborne said:

"The message is simple: if you evade tax, we're coming after you. The Government has invested hundreds of millions of pounds to fund the fight against tax evasion, both at home and abroad. This data is another weapon in HMRC's arsenal. Ahead of the UK's presidency of the G8 this year, the Prime Minister has made it a key priority to drive an international effort to increase transparency and clamp down on tax avoidance and evasion. By working with our international partners in this way, we are again demonstrating our commitment to this work."

Jennie Granger, HMRC Commissioner and Director General for Enforcement and Compliance said:

"Working with the international tax community to pursue offshore evasion is another important step in closing the net on tax evasion."

"There is nothing illegal about an international structure, especially in a globally integrated economy and these arrangements may be perfectly legitimate and may already have been declared to HMRC. However they may involve tax evasion, avoidance or other serious offences by taxpayers. What has to stop is using offshore structures to illegally hide assets and income."

New guidance issued – GAAR

17 April 2013

Following approval from the GAAR advisory panel, HMRC have issued new guidance for the General Anti-Abuse Rule (GAAR).

The General Anti-Abuse Rule (GAAR) is one part of the Government's approach to managing the risk of tax avoidance. It was introduced to strengthen HM Revenue & Customs' (HMRC's) anti-avoidance strategy and help HMRC tackle abusive avoidance. The GAAR legislation defines what are, for its purposes, tax arrangements that are abusive.

However be aware that if something isn't covered by the [GAAR](#) it doesn't mean it won't be tackled in another way. HMRC have stated that they will continue to tackle tax avoidance using existing anti-avoidance methods as well as the GAAR, where appropriate.

The GAAR applies to the following taxes:

- Income Tax
- Corporation Tax (including amounts chargeable or treated as Corporation Tax)
- Capital Gains Tax
- Inheritance Tax
- Petroleum Revenue Tax
- Stamp Duty Land Tax
- Annual Tax on Enveloped Dwellings

Statutory Payments

Sickness Absence Review

DWP publish updated fit note guidance

7 March 2013

The Department for Work & Pensions has published updated guidance for all stakeholders in a bid to provide greater support for sick workers in returning to work more easily.

Fit note guidance is available for GPs, hospital doctors, employees, [employers & line managers](#) and occupational health practitioners.

The improved guidance is based upon research and feedback from patients, GPs and employers and is designed to maximise the full potential of the fit note by looking at what a person can do whilst sick instead of what they can't do.

Dr Bill Gunnyeon, Chief Medical Adviser for the Department for Work and Pensions, said:

"The fit note can be valuable in helping people return to work quickly and avoid long-term absence and potential job loss – this revised guidance helps doctors, employers and patients use it to its full potential."

The guidance aims to clarify that the fit note is about someone's general fitness for work and is not tied to their most recent job, allowing flexibility to discuss what changes could help someone do some work.

It includes clarification about the legal status of the fit note in relation to sick pay, situations where an employer cannot make any changes, and non-medical problems at work along with details about the computer generated fit note.

The original guidance explained how the fit note differed from the sick note when it was launched three years ago. The fit note considers what work someone might be able to do when their condition is taken into account, rather than what they can't do under the previous sick note system. [All revised guidance](#) is available from the DWP website.



Miscellaneous

Money Laundering Regulations

HMRC to contact businesses registered under the money laundering regulations

1 May 2013

HMRC have published news about a programme of work that is to be undertaken by Anti-Money Laundering Compliance Officers.

HM Revenue & Customs (HMRC) Anti-Money Laundering Compliance Officers will shortly begin a programme of telephoning businesses registered with, and supervised by HMRC under the Money Laundering Regulations (MLR) 2007.

These [calls](#) will be in addition to and will complement ongoing HMRC compliance activity. HMRC will be contacting businesses to make sure that up to date information is held about their activities. The calls will also further improve HMRC understanding of customers and to find out whether they need any additional help.



HMRC can ask registered businesses for this information under Regulation 37 of the MLR 2007 and this has proved to be a very cost effective way for both customers and HMRC supervisors to conduct its compliance activity.

During the calls the HMRC officers will confirm their identity and ask businesses for their security information. They will ask for details of business activities, customers and also answer any questions. This will help HMRC decide whether a visit is needed and give businesses the opportunity to clarify any issues they may have.

Modern Workplaces Consultation

Parental Leave

Parental leave extends from 13 to 18 weeks

8 March 2013

Entitlement to unpaid [parental leave](#) extends from 13 weeks to 18 weeks on Friday 8 March 2013.

Current guidance on the subject of Parental Leave is available at the Gov.uk website, however as a summary reminder, the right to parental leave, (which remains unpaid), will be as follows:

- For parents of children - up to the child's 5th birthday the right to leave will increase from 13 to 18 weeks.
- For parents of each adopted child - up to the child's 18th birthday or the 5th anniversary of adoption (whichever happens first) entitlement is also increasing from 13 weeks to 18 weeks.
- For parents of children who qualify for Disability Living Allowance, 18 weeks up to their 18th birthday.

This change follows a delay of one year to allow the government to continue with development of the Modern Workplaces Policy.

Welfare Reforms

Don't delay in renewing your tax credits

23 April 2013

HMRC are reminding tax credit claimants that they risk their tax credits ceasing if they don't renew by 31 July.

The [Employer Bulletin Issue 44](#) also contains an article which sees HMRC asking employers, to encourage their staff to renew as soon as possible to reduce the risk of over payments of tax credits being stopped. Promotional material has been together for employers to use to help get the message across, [messages on payslips](#), [article for company newsletter](#), [poster to display in workplace](#).

HMRC will begin to send out Tax Credit renewal packs to about 5.8 million people from now until the end of June.



They are urged to act as soon as they receive a renewal pack. More than 3.7 million claimants renewed by the deadline last year, 90 per cent of those who were required to renew their claim.

HMRC is also asking claimants to check the accuracy of the information in the pack, and may have to query some of it with employers.

Claimants must tell HMRC about any changes to their circumstances that they haven't already reported, such as changes to working hours, childcare costs or pay. If asked, they must also provide details of the previous year's income.

The amount a claimant's income can change before HMRC must be told – the income disregard – was reduced this April to £5,000.

Having the right documents available will help reduce mistakes when they are filling out the form or calling HMRC's Tax Credits helpline. These documents would be, for example, payslips, end of year P60 forms and childcare payment details.

HMRC's Director of Benefits and Credits, Nick Lodge, said:

"Our message to people is renew early, renew accurately and renew on time.

"They should aim to renew their Tax Credits as soon as they receive a pack, and must check that their details are correct.

"If claimants don't renew claims before 31 July, their payments might stop."

Universal Credit, which will take over all Tax Credit claims by 2017, will be introduced this year. It is therefore important that claimants ensure that the data held by HMRC about their claim is accurate.

Claimants can get help and information on Tax Credit renewals from:

Website: <https://www.gov.uk/browse/benefits/tax-credits>

Telephone: Tax Credits helpline – 0345 300 3900

DWP Stakeholder Bulletin - April 2013

24 April 2013

The Department for Work and Pensions have published the April edition of their stakeholder bulletin.

This edition contains articles about:

[The health and work assessment and advisory service](#) - It was announced in the 2013 Budget that tax relief will be available on health related interventions recommended by the new health and work assessment and advisory service.

Employers will receive tax relief on expenditure of up to £500 on health-related interventions to help an employee return to work after sickness. The Government plan to consult on the implementation of tax relief later this year, ahead of the introduction of the service in 2014.

The Statutory Sick Pay Percentage Threshold Scheme will be abolished in April 2014 to provide funding for the health and work assessment and advisory service.

[DWP Consultations](#)

[Appeals process changes](#)

[Jobseeker's Allowance – claiming via the online service](#)

[Changes to loss of Benefit Penalties](#) - The Department for Work and Pensions and HM Revenue and Customs have brought in changes to current legislation to impose tougher penalties on people who commit benefit fraud.

[Personal Independence Payment \(PIP\)](#) – which was introduced on 8 April 2013

DWP Stakeholder Bulletin - May 2013

21 May 2013

The Stakeholder bulletin for May has been issued by the Department for Work & Pensions (DWP).

The May edition included articles on a variety of subjects including the early rollout of Universal Credit, known as Pathfinder which began in some areas of Greater Manchester and Cheshire in April 2013. Universal Credit will be progressively rolled out nationally from October 2013. The [Universal Credits Toolkit for Partner Organisations](#) has been refreshed to provide information about Universal Credit in different formats.

You can sign up to receive [Stakeholder Bulletin](#) at the DWP website.



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