

AGE DISCRIMINATION & STATUTORY PAYMENTS

FROM 01/10/2006

Recoveries etc / end of year reports / in-year records

Following the removal of age restrictions from 1 October 2006 we have been asked for clarification of the end of year reporting etc requirements for employers with younger or older employees receiving Statutory Payments [SPs] from that date.

What impact will the new legislation have on employees' and employers' entitlements ?

- What will change as a result of the legislation is that provided the younger or older employees meet all the normal qualifying conditions they will be entitled to the SPs. The employers' entitlements will remain unchanged. They will be entitled, in respect of these payments, to recovery / compensation out of their monthly / quarterly PAYE / NICs, just as they are now for payments made to their other employees. And they will similarly be entitled to advance funding from HMRC.

Is an employer entitled to "NICs compensation" for payments to younger employees for whom, from 1/10/2006, there will still be no NICs liability?

- Yes - the compensation is not dependent upon the individual employee's NICs status.

So what will employers need to report to HMRC at the end of the year for younger or older employees who received SPs ?

- The short answer is - basically the same as now for reporting SPs made to other employees.
- Employers will be required, from records kept in year, to report at EOY on the P35 all recoveries, compensation and advance funding for Statutory Payments whether made to younger / older employees, or to other employees. No separate record or report will be needed to distinguish between employees of different ages.
- For SMP, SAP and SPP employers must report, on the P14 and in respect of each Statutory Payment, all the SPs paid to each employee, regardless of his / her age.
- For SSP however recoveries will not always be due. Employers need only report on P14 SSP paid to each employee for the months where they

recovered any SSP. But if it is easier to report all SSP paid in all tax months, instead of just in the tax months where the employer made a recovery, that is acceptable.

Will P14s distinguish between payments made to younger / older employees, and payments made to other employees?

- No. Employees' age will not affect Statutory Payment entries on P14s.

What entries for SPs will be needed on form P14 for younger employees?

Existing Internet Business Validation Rules should be followed. These require:

- Category letter to be X.
- Boxes 1a) to 1e) to show 0.
- Boxes 1f) to 1i) to show amounts of SPs paid, or 0.
- "Pay in this employment" box to include SPs paid.

What entries for SPs will be needed on form P14 for older employees?

Existing Internet Business Validation Rules should be followed. These require:

- Category letter to be C.
- Boxes 1a) to 1e) to show relevant amount, or 0.
- Boxes 1f) to 1i) to show amounts of SPs paid, or 0.
- "Pay in this employment" box to include SPs paid.

Will there be any changes to forms P35 or P14 as a result of this Age Discrimination legislation and its impact on SPs?

- No.

Are there any age restrictions within the existing Internet Business Validation Rules relating to Statutory Payments ?

- No. So SPs for a younger or older employee can be reported on a P14 filed over the internet.

What records will employers need to keep in-year for younger or older employees who received SPs ?

- The short answer is - basically the same as now for recording SPs made to other employees. Of course the P11s (or equivalent) should be sufficient to enable the employer to report as above on P14 at the end of the year.

Will P11s distinguish between payments made to younger / older employees, and payments made to other employees?

- No. Employees' age will not affect Statutory Payment entries on P11s.

Will there be any changes to form P11 as a result of this Age Discrimination legislation and its impact on SPs?

- No.

Is there any other form-filling obligation where a younger or older employee applies for but does not qualify for a Statutory Payment?

- Yes - the same as now for any other employees - SSP1/SMP1 etc.

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	SMP	SAP	SPP	SSP
Employer entitled to:				
Recovery from PAYE / NICs - as per existing rules	Y	Y	Y	Y
Compensation - as per existing rules	Y	Y	Y	N/A
Funding from HMRC - as per existing rules	Y	Y	Y	Y
End of Year Reporting:				
	<i>Any entry?</i>	<i>Any entry?</i>	<i>Any entry?</i>	<i>Any entry?</i>
Report on P35 all: - recoveries - compensation - funding from HMRC (as per existing rules). <i>If no recovery, compensation etc, P35 entries should be "0".</i>	Y	Y	Y	Y - but no compensation
Where (for each Statutory Payment) employer makes any recovery / receives any funding from HMRC, report on P14 →	Total SMP paid to each employee	Total SAP paid to each employee	Total SPP paid to each employee	**Total SSP paid to each employee for all tax months where employer received recovery / funding of any SSP (see Pages 20 and 22 of E14 (2006))
Where (for each Statutory Payment) employer makes no recovery / receives no funding from HMRC, report on P14 →	N/A	N/A	N/A	**No entry needed
**NOTE - as per Page 20 of E14 (2006), if it is easier just to report all SSP paid in all tax months, instead of just in the months where employer made a recovery, the employer can choose to do that.				

	SMP	SAP	SPP	SSP
In-year Recording:				
	<i>Any entry?</i>	<i>Any entry?</i>	<i>Any entry?</i>	<i>Any entry?</i>
Where (for each Statutory Payment) employer makes any recovery / receives any funding from HMRC, record on P11 (or equivalent) →	SMP paid to each employee	SAP paid to each employee	SPP paid to each employee	***SSP paid to each employee for each tax month where employer received recovery / funding of any SSP (see Pages 20 and 22 of E14 (2006))
Where (for each Statutory Payment) employer makes no recovery / receives no funding from HMRC, record on P11 (or equivalent) →	N/A	N/A	N/A	***No entry needed on a P11 (or equivalent)
***NOTE - as per Page 20 of E14 (2006), if it is easier just to report on P14 all SSP paid in all tax months, instead of just in the months where employer made a recovery, the employer can choose to do that - and to record similar details on P11 or equivalent.				