

These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002

## PAYE REGULATIONS

### EXPLANATORY NOTES

The commentary below covers the draft regulations in Annex B. The table following lists those draft regulations.

<b><i>Part 7: Social Security Benefits: Jobseeker's Allowance Draft Regulation</i></b>	<b><i>Based on Regulation</i></b>
<b><i>Chapter 1: Normal Cases</i></b>	
Regulation 81: Interpretation of Part 7	81, 83(part), 94
Regulation 81A: Application to claimants	new
Regulation 82: Application of other regulations	82, 83(part),85(part)
Regulation 84: Obtaining the claimant's P45	84(part)
Regulation 84A: Deductions working sheet for all claimants	84(part)
Regulation 84B: Form P45: deductions working sheet and return	84(part)
Regulation 84C: No Form P45: deductions working sheet and return	84(part)
Regulation 85: Claimant's code etc. to be used for calculations	85(part)
Regulation 87: Recording the amount of taxable jobseeker's allowance	87
Regulation 88: End of year	88(part)
Regulation 89: When a claim ceases	89(part), new
Regulation 89A: Cessation of claim: Form P45U	89(part), new
Regulation 90: Notification of taxable jobseeker's allowance adjustment	88(part), 90
Regulation 91: Tax calculation	91(part)
Regulation 91A: No tax calculation required in certain cases	91(part)
Regulation 92: Death of claimant	92
Regulation 93: Finance	93
<b><i>Chapter 2: Jobseeker's Allowance: Special Cases</i></b>	
Regulation 94: Application to Chapter 2 claimants	new
Regulation 95: Jobseeker's allowance paid directly to claimant	95
Regulation 96: Jobseeker's allowance paid by employer	96(part)
Regulation 96A: Regulation 96 cases: application of other regulations	96(part), new
Regulation 97: When a Chapter 2 claim ceases	97(part), new
Regulation 97A: Information to be supplied at end of year	new
Regulation 97B: Information to be supplied when claim to taxable jobseeker's allowance ceases	97(part), new
Regulation 98: Adjustments of taxable jobseeker's allowance	98

<b>Chapter 3: Incapacity Benefit</b>	<b>Based on Regulation</b>
Regulation 98A: Interpretation of Chapter 3	81, 98A, 98C(part)
Regulation 98B: Application of other regulations	82, 98B, 98F(part), 98G, 98H
Regulation 98C: Emergency IB code to be applied before claimant's code issued	98C(part)
Regulation 98D: Return in respect of all claimants to taxable incapacity benefit	98D(part)
Regulation 98DD: Further return only required in certain cases	98D(part)
Regulation 98E: Delivery of Form P45 to Department	98E
Regulation 98F: Determination of claimant's code by [Inland Revenue]	98F(part), new
<b>Chapter 4: Income Support</b>	
Regulation 99A: Interpretation of Chapter 4	new
Regulation 99B: Recording the amount of taxable income support	new
Regulation 99C: Information to be supplied when claim to taxable income support ceases	new
Regulation 99D: Adjustments of taxable income support	new

Notes

1. regulation 86 of SI 1993/744 is omitted from the drafts at Annex B as unnecessary.
2. regulations 98G and 98H of SI 1993/744 have been incorporated within draft regulation 98B.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

## **GLOSSARY**

This commentary uses the following abbreviations:

ICTA	the Income and Corporation Taxes Act 1988
draft Bill	the draft Income Tax (Earnings and Pensions) Bill published on 2 July 2002
TMA	the Taxes Management Act 1970
department	the Department for Work and Pensions (in Great Britain) the Department for Social Development (in Northern Ireland)
benefit	Chapters 1 and 2: jobseeker's allowance, (JSA) Chapter 3: incapacity benefit Chapter 4: income support
SI 1993/744	The Income Tax (Employments) Regulations 1993 (as amended)
SI 19nn/ppp	Statutory Instrument Number ppp of [year] 19nn

The commentary also refers to the drafts of other PAYE regulations published earlier in 2002. They, and the draft Bill, are available on the Inland Revenue's website – [www.inlandrevenue.gov.uk](http://www.inlandrevenue.gov.uk).

## **QUESTIONS ON THE DRAFT REGULATIONS**

The commentary invites comments on changes in the law proposed in the draft regulations and on a few other points. There is a summary of these questions on page 2 of this commentary.

## **PART 7: SOCIAL SECURITY BENEFITS**

### ***Overview of Part***

1. This Part sets out special procedures for certain social security benefits for which the PAYE system makes particular provision.
2. *Chapters 1 and 2* deal with jobseeker's allowance, "JSA".
3. Chapter 1 makes provision for the overwhelming majority of people who are paid JSA. It requires the departments to pay them without deduction or repayment of tax. But it also provides for the department to record PAYE codes and payments of taxable JSA; and to make tax calculations. This means claimants get a P45 at the end of their claims and (if appropriate) repayments of tax; and also get any tax repayments due at the end of the tax year if still claiming JSA then.
4. Chapter 2 makes special provision for exceptional cases where JSA is paid to people still in work or to share fishermen.
5. *Chapter 3* deals with incapacity benefit. It requires the departments to operate PAYE on payments of taxable incapacity benefit if the claimant does not have another source of PAYE income. For other claimants the Inland Revenue can usually collect any tax due by adjusting the PAYE code used for that other source of income.
6. *Chapter 4* provides for the department to give information about taxable income support to claimants and the Inland Revenue.

### ***Background***

7. The draft regulations in this Part are based on Part VII of SI 1993/744 with minor changes to bring them into line with practice.
8. But the approach taken in this Part is different. The structure is different. More important, the language is very different. Direct use is made of terms which the department and claimants, and those who advise them, will recognise from other tax legislation and from the legislation which governs entitlement to benefits. The reasons for this are best explained against the background of the history of the legislation.

### ***Legislative history***

9. Section 27 Finance Act 1981 brought unemployment benefit and certain supplementary benefits within the charge to income tax. Section 28 provided for a notification of taxable benefit to be sent to the claimant by a benefit officer and allowed a 60-day window for lodging an objection to it.
10. Regulation 14 of SI 1982/66 brought within the PAYE regulations, provision for the collection of tax on these social security benefits, defined as "taxable benefits". Regulation 14 inserted into what were then the Principal PAYE Regulations (SI 1973/334) a new Part VIII, (Social Security and Supplementary Benefits Paid to

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

Wholly Unemployed Persons) and a new Part IX (Social Security and Supplementary Benefits Paid to Employed Persons). The regulations came into operation on 5 July 1982.

11. The Social Security Act 1986 introduced income support as a replacement for supplementary benefit allowances from April 1988. Section 29 Finance Act 1987 made certain payments of income support chargeable to income tax. Regulation 7 SI 1988/637 extended the definition of “taxable benefit” in SI 1973/334 to include taxable income support.

12. The consolidation of PAYE regulations in SI 1993/744 brought together the regulations for social security benefits in Part VII. What had been Part VIII of SI 1973/334 (broadly) became Chapters I and II of Part VII, while the material in Part IX of SI 1973/334 became Chapter III.

13. Incapacity benefit replaced sickness and invalidity benefit under the terms of the Social Security (Incapacity for Work) Act 1994. It made incapacity for work the test to qualify for the benefit. Incapacity benefit was brought into charge to tax by Finance Act 1994, section 139.

14. Incapacity benefit became taxable for new claimants from 13 April 1995. Regulation 6 of SI 1995/853 introduced a modified form of PAYE quite distinct from the existing provisions for unemployment benefit and, subsequently, for JSA. It did this through a new chapter, Chapter IV, which was added to Part VII of the 1993 regulations.

15. SI 1996/2381 amended further Part VII of SI 1993/744. This was for the new jobseeker’s allowance introduced by the Jobseekers Act 1995 (c. 18) and the Jobseekers (Northern Ireland) Order 1995. Jobseeker’s allowance replaced unemployment benefit and income support paid to the unemployed from 1996. Regulation 3 substituted the definition of “benefit” and amended the definition of “taxable benefit” in regulation 81 so they included jobseeker’s allowance. The only other amendment was to regulation 83 so “the Department” in that regulation referred the Department of Social Security as the Department responsible in Great Britain for payments of jobseeker’s allowance.

***Approach taken in these draft regulations***

16. These draft regulations take a significantly different approach.

17. First, as noted above (paragraph 15), the PAYE regulations were not significantly amended in 1996 for the introduction of JSA. The regulations which applied to unemployment benefit were left to apply to JSA. However this left the language of the regulations out of step with the language of the legislation for JSA. On close examination it also meant that some of the dividing lines drawn in the regulations for unemployment benefit did not apply, or did not apply clearly, for JSA. In these draft regulations the provisions for JSA in Chapters 1 and 2 are recast in

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

terms which match the legislation which deal with entitlement to JSA. These terms, and references to the relevant social security, legislation, have been incorporated in the definitions.

18. Second, the provisions for incapacity benefit in SI 1993/744 necessarily had to be added to the existing provisions for social security benefits and had to build on definitions already there. Chapter 3 of these draft regulations is more clearly separate from the provisions for JSA with separate defined terms.

19. Third, in SI 1993/744 the detailed application of other provisions in the regulations to social security benefits dealt with by Part VII is largely left to be inferred from the regulations in Part VII. Chapters 1 and 3 of these draft regulations make explicit which other regulations apply, and with what modifications, to JSA and to incapacity benefit.

20. Finally, in Chapter 4, the opportunity has been taken to restore minor provisions relating to income support.

21. This new approach, and in particular the modernisation of the provisions for JSA, entails changes in the law as well as in the language of the regulations. Specific changes are identified in the commentary on the individual regulations.

#### ***Headings and organisation of these regulations***

22. The numbers used for the draft regulations are purely provisional. For the most part those provisional numbers are the same as, or similar to, numbers used by corresponding material in Part VII of SI 1993/744.

23. The draft regulations in Annex B contain a number of references to provisions of the draft Bill. Later drafts will naturally refer to the corresponding provisions in the subsequent Act.

24. Some of the headings of regulations differ from those used for corresponding material in Part VII of SI 1993/744. The changes are intended to convey better what the regulation is about.

25. The material in these Parts has also been provisionally reorganised under headings that differ from those in SI 1993/744.

#### ***Omitted material***

26. Regulation 86 of SI 1993/744 (Quarterly attenders) is no longer necessary. When JSA replaced unemployment benefit the facility for certain recipients of unemployment benefit to “sign on” every 13 weeks was not extended to JSA claimants. The provision is therefore now obsolete.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

## **CHAPTER 1: JOBSEEKER'S ALLOWANCE: NORMAL CASES**

### ***Overview***

27. This Chapter deals with the overwhelming majority of claimants who receive taxable JSA. It makes provisions for the department to receive and issue information about claimants and their taxable JSA. The purpose of these provisions is to maintain PAYE codes and cumulative records of income and tax deducted, as claimants move in and out of work in the particular circumstances of JSA. That way claimants are more likely to end the year paying the right amount of tax. It also requires the department to make tax calculations at the end of the tax year or end of the claim and if appropriate repay tax to claimants.

28. *Regulation 81* defines terms used in this Chapter and in Chapter 2.

29. *Regulation 81A* applies this Chapter to all claimants apart from the exceptions who are within Chapter 2.

30. *Regulation 82* applies specific regulations in other Parts to payments of taxable JSA.

31. *Regulations 84 to 84C* deal with the start of a claim. They require claimants to deliver P45s to the department (regulation 84). The department must then prepare a deductions working sheet (regulation 84A) and notify the Inland Revenue. It does so using information and the PAYE code on the P45 or the emergency code (regulations 84B and 84C).

32. *Regulation 85* requires the department to record any new code or revised figures of cumulative emoluments and tax deducted issued by the Inland Revenue.

33. *Regulation 87* requires the department to record any payment of taxable JSA, but not to deduct or repay tax on making the payment.

34. *Regulations 88 to 89A* deal with the end of a tax year and the end of claim. If a claim has not ceased before the end of a tax year the department must make a tax calculation if required to do so (see regulation 91) and generally must issue to claimants a certificate (Form P60) showing among other things the amount of taxable JSA paid. When a claim ends the department must make a tax calculation if required to do so (see regulation 91) and give information to the Inland Revenue and to the claimant (Form P45).

35. *Regulation 90* requires the department to notify the claimant and the Inland Revenue if taxable JSA is paid or recovered from a claimant after the issue of the P60 or P45.

36. *Regulations 91 and 91A* deal with the tax calculation the department must generally make at the end of a tax year or the end of a claim. Regulation 91 sets out

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

how the calculation is to be made using the cumulative totals of income and tax. It also requires the department to repay to the claimant any excess of cumulative tax deducted over total tax due. Regulation 91A requires the department not to make a tax calculation if the claimant's code is to be used on the non-cumulative basis. It also sets out various circumstances in which the department must for this purpose treat the code as being on the non-cumulative basis.

37. *Regulation 92* requires the department, on the death of a claimant, to notify the Inland Revenue and, if known, the claimant's personal representatives, of the JSA and taxable JSA paid.

38. *Regulation 93* requires the Inland Revenue to fund the repayments made by the department and requires the department to account for the money it repays.

### **Background**

39. A person can qualify for JSA either:

- through national insurance contributions. If someone qualifies for JSA on this basis it is referred to as "contribution based jobseeker's allowance". Someone can only qualify on this basis for a maximum of six months; or
- through a means test. If someone qualifies for JSA on this basis it is referred to as "income based JSA".

40. The general conditions for JSA are that a person

- is available for employment;
- has entered into a jobseeker's agreement which remains in force;
- is actively seeking employment;
- is not engaged in remunerative work;
- is capable of work;
- is not receiving relevant education;
- is under pensionable age; and
- is in Great Britain or Northern Ireland.

41. These conditions are set out in (and in some circumstances modified) in the Jobseekers Act 1995 (c.18), the Jobseekers (Northern Ireland) Order 1995 and in the regulations made under them.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

**Regulation 81: Interpretation of Chapters 1 and 2 of Part 7**

42. Regulation 81 contains definitions for the purposes of Chapters 1 and 2. It is based on regulations 81, 83(1) and 94 of SI 1993/744.

***Scope of Chapters 1 and 2***

43. Chapters 1 and 2 apply only to taxable JSA. This is different from SI 1993/744. The consolidation in 1993 inadvertently defined in regulation 81 of SI 1993/744 “taxable benefit” in terms of section 617(1) ICTA. That provision brings into charge under Schedule E payments of benefit under Parts II – IV of the Social Security Contributions & Benefits Act 1992 apart from listed exceptions. However, the provisions concerning income support which were previously in the Social Security Act 1986 were re-enacted in Part VI of the Social Security Contributions & Benefits Act 1992.

44. The effect of this was that the special application of the PAYE regulations to income support was lost. And other benefits within Parts II – IV of the Social Security Contributions & Benefits Act 1992 not exempted by section 617(1) were unintentionally brought within the ambit of Part VII.

45. To avoid confusion and make the regulations more accessible these Chapters explicitly refer to JSA.

46. This is a change in the law to the extent that it removes a possible argument that the regulations have wider application. But in practice the Inland Revenue and the department have operated these regulations only in respect of unemployment benefit and JSA, and the appropriate supplementary benefit.

**Q1. We welcome comments on the proposal to refer explicitly to JSA and to define “claim” and “claimant” accordingly. (Part 7 Chapters 1 and 2)**

***Division between normal and special cases***

47. Chapters II and III of Part VII SI 1993/744 have the respective headings “Payments to wholly unemployed persons” and “Payments to employed persons”. For JSA these descriptions are misleading. Entitlement to JSA does not turn on unemployment as such. In practice Chapter III is only applied to JSA claimants who are laid off or on short time work (known as “temporarily stopped” workers) and to share fishermen. All other JSA claimants come within Chapter II.

48. Broadly, Chapters II and III of Part VII SI 1993/744 are the basis for Chapters 1 and 2 respectively of these draft regulations. So these draft regulations show the Chapter 1 claimant as the “normal” case. For Chapter 2 in place of “an employed earner who has made a claim” the term “Chapter 2 claimant” is used. It is defined in terms of the JSA Regulations which govern those who are laid off or on short time work and share fishermen.

**Q2. We welcome comments on the proposal to define the Chapter 2 claimant in terms of the JSA Regulations relating to those who are laid off or on short time work and share fishermen. (regulation 81)**

***Deductions working sheet***

49. A definition of “working sheet” no longer appears separately for Part 7. No change has been made to the requirement that the department must prepare deductions working sheets for all claimants. Indeed it has been given greater prominence in draft regulation 84A. But the definition of “deductions working sheet” at regulation 2(1) covers adequately the record that has to be prepared and kept by the department.

**Regulation 81A: Application to claimants**

50. This regulation limits what follows in the Chapter to “normal” cases outside Chapter 2. It is necessary in consequence of the reorganisation of the provisions for JSA and of the definitions in regulation 81.

**Regulation 82: Application of other regulations**

51. This regulation sets out which regulations in other Parts apply to payments of taxable JSA for normal claimants and with what modifications. It is based on regulations 82 and 83(3) of SI 1993/744.

***Explicit application of other regulations***

52. In Part VII of SI 1993/744 regulation 82(1) provides that Parts III to VI of those regulations apply to payments of taxable benefit only to the extent and with the modifications set out in that Part. Regulation 85(1) of SI 1993/744 then applies some other regulations. But there are various places where the application of other regulations is left implicit. Readers have to fill in the gaps and deduce the modifications.

53. This draft regulation takes a different approach. It lists explicitly regulations from other Parts which apply to payments dealt with in Chapter 1 and with what modifications. This is a change in the law, in as much as it removes scope for dispute about which other regulations apply and how, but not a change in practice.

**Q3. We welcome comments on the proposal to make explicit which other regulations apply and with what modifications to payments within Chapter 1. (regulation 82(1))**

***References to Inland Revenue***

54. The table refers to regulation 7 as “Determination of appropriate code by [Inland Revenue]”. Other draft regulations in this Part similarly refer to the Inland Revenue where SI 1993/744 refers to the inspector. This is in line with proposals in earlier draft regulations to replace references to “inspector” by references to “Inland Revenue” (which will be defined to mean any officer of the Board). The same change is proposed in the draft Bill. It is also normal practice in Finance Acts. It reflects the

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

way reorganisation of the Inland Revenue since the early 1990s has broken down old dividing lines between inspectors, collectors and others. The square brackets are left around the term to signal that in due course we shall be setting out the background more fully and inviting comments on the change.

***How other regulations are read when applying to jobseeker's allowance***

55. Regulation 82(2) makes clear that the references in other regulations to deduction or repayment of tax are to be read as referring to the calculation the department may be required to make at the end of a claim or a tax year. The department is not required to deduct tax from JSA but may, as the result of a tax calculation, have to repay tax to a claimant. It is based on regulation 83(3) of SI 1993/744. But the revisions in these drafts allow it to refer more explicitly to “the tax calculation” rather than to “the duties imposed upon the Department by regulations 88 and 89” in regulation 83(3) of SI 1993/744.

56. Draft regulation 81(2) also sets out how the terms “emoluments” and so on in other regulations are to be read when applied to JSA. The terms are in square brackets as we have yet to consult users on the advantages and disadvantages of possible replacements for the terms “employer”, “employee” and “employment” in the regulations.

**Regulation 84: Obtaining the claimant's P45**

57. This regulation provides that on making a claim the claimant must hand over Parts 2 and 3 of any Form P45. It also allows the department to require a previous employer who did not provide a P45 to the claimant to give it to the department within 14 days. It is based on regulation 84(1) and (8) of SI 1993/744.

***Which Forms P45***

58. Paragraph (1) requires the claimant to surrender “Parts 2 and 3 of Form P45” and not as in SI 1993/744 “two of the three copies of the statement delivered to him in accordance with regulation 23(3).” This reflects the way draft regulation 23 published in April proposes to make clear that Parts 2 and 3 of Form P45 are not *copies* as such of the statement delivered to the Inland Revenue

59. Regulation 84(1) of SI 1993/744 refers to a P45 provided under regulation 23. Regulation 84(2) of SI 1993/744 refers to a P45 provided under regulation 89. But draft regulation 89A (commentary at paragraphs 106-108) gives equivalence to Parts 2 and 3 of Form P45 whether issued by an employer in accordance with regulation 23 or by the department at the end of a claim to taxable JSA in accordance with regulation 89. Accordingly reference to Parts 2 and 3 of Form P45 is sufficient to cover both situations.

***Time limit for P45s***

60. Regulation 84(2) is based on regulation 84(8) of SI 1993/744. But that stipulates no time limit for the employer to provide the Forms P45 when the department asks for them. However regulation 84(9) of SI 1993/744 provides that if

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

they are not produced “within the period specified by the Board” the department must make a return to the Inland Revenue (see regulation 84C). The Board has not used its power to specify a period but in practice the department allows 14 days for the production of Parts 2 and 3 of Form P45. This draft regulation reflects this practice. It is a change in the law but not in practice.

**Q4. We welcome comments on the proposal to specify the 14 day period which the department allows for the production of Parts 2 and 3 of Form P45. (regulation 84(2))**

**Regulation 84A: Deductions working sheet for all claimants**

61. This regulation requires the department to prepare a deductions working sheet for all who claim taxable JSA. It is based partly on regulation 84(3)(a) of SI 1993/744.

62. This requirement is made only indirectly in the references to paragraph (3) in paragraphs (5) and (7) of regulation 84 of SI 1993/744. This draft regulation makes it more prominent. The remaining material in regulation 84 of SI 1993/744 concerning what goes on the deductions working sheet and the return the department has to make to the Inland Revenue has now been split into draft regulations 84B and 84C.

**Regulation 84B: Form P45: deductions working sheet and return**

63. This regulation deals with the preparation of the working sheet if the department gets Parts 2 and 3 of Form P45. It is based on regulation 84(3), (5) and parts of regulation 84(6) and (7) of SI 1993/744.

64. Regulation 84B(1), (2) and (3) supply the rules for completion of the deductions working sheet if a current year Form P45 has been handed in.

65. Regulation 84B(4) modifies the rules where the Form P45 relates to the previous year but the claim is made by 24 May in the current year.

66. Regulation 84B(5) provides that where a code taken from a P45 is entered on the deductions working sheet in accordance with paragraphs (1) or (4) it is to be treated as the claimant’s code for the purposes of these regulations.

67. Regulation 84B(6) provides a further modification where the P45 relates to a previous year and is not covered by paragraph (4). That modification entails the department substituting the emergency code for the code shown on the Form P45. The term “emergency code” was introduced in the draft regulations published in April and will be defined in the regulations.

68. Regulation 84B(7) provides that the information recorded on the deductions working sheet is to be sent to the Inland Revenue in the form of a return.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

**Regulation 84C: No Form P45: deductions working sheet and return**

69. This regulation deals with the preparation of the working sheet for claimants if the department does not get a P45. It is based on regulations 84(9) and 84(10) of SI 1993/744.

***Time limit for working sheet***

70. Paragraph (1) gives the department 14 days in which to prepare a deductions working sheet. This allows for the possibility that the P45 may be obtained from an employer during that period. Stipulating the period at 14 days is new, but it accords with what the department actually does and with the change proposed in draft regulation 84 (see paragraph [60] of this commentary).

**Q5. We welcome comments on the proposal to allow for a 14 day period in which the department must prepare a deductions working sheet in cases where it gets no Form P45. (regulation 84C(1))**

***Claimant's NINO etc***

71. Paragraph (2) requires the department to make a return to the Inland Revenue. This return enables the Inland Revenue to trace any record it may already hold for any previous employment of the claimant. Regulation 84(9) of SI 1993/744 provides for the claimant's name address and date of claim to be included on the return. These requirements are reproduced at 84C(2)(a) and (d). Regulation 84(9) of SI 1993/744 also provides that the return may contain "such other particulars as may be necessary to enable the inspector to determine the appropriate code in accordance with regulation 7." In practice the further information supplied is the claimant's national insurance number and date of birth and the reference number which identifies the benefit office making the return. Paragraph (2)(b), (c) and (e) make these specific requirements. This is a change in the law but not in practice.

**Q6. We welcome comments on the inclusion of specific information at 84C(2)(b), (c) and (e) in place of the general requirement in regulation 84(9) of SI 1993/744 for "such other particulars as may be necessary". (regulation 84C(2))**

72. Paragraph (3) provides that no return is required for a claimant who is a full time student or was recently a full time student and has not since been in employment. Time is not spent in searching for a record of previous employment which is unlikely to exist. It is based on regulation 84(10) of SI 1993/744.

**Regulation 85: Claimants code etc to be used for calculations**

73. This regulation requires the department to use any code issued by the Inland Revenue and to take on board any instructions from the Inland Revenue to revise the figures (if any) it has taken from the Form P45. It is based on regulation 85(2) of SI 1993/744.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

74. At the start of a claim the department will have entered on the claimant's deductions working sheet either a code shown on a P45 or an emergency code. But this may be displaced by a code from the Inland Revenue. Similarly the Inland Revenue may instruct the department to use different figures for cumulative emoluments and tax – for example where the Inland Revenue is restoring cumulation. The new details are to be used for the purposes of calculations required by the Chapter.

**Regulation 87: Recording the amount of taxable jobseeker's allowance**

75. This regulation requires the department to record the amount of taxable JSA included in each payment of JSA. It is based on regulation 87 of SI 1993/744.

76. The draft regulation omits the reference to regulation 86 of SI 1993/744 which has been omitted as unnecessary (see paragraph [25]).

**Regulation 88: End of year**

77. This regulation requires the department, at the end of the tax year, to make tax calculations and provide the Inland Revenue and claimants with information if claims have not ceased. It is based on regulation 88 (except paragraph (3)) of SI 1993/744.

78. These requirements are similar to those for employers under regulation 39 and part of regulation 43.

79. Paragraphs (1) and (2) are based on regulation 88(1) and 88(2) of SI 1993/744. They set out the department's end of year obligations and provide some exceptions to those obligations.

***Claimant's NINO etc***

80. Paragraph (3) is based on regulation 88(4) of SI 1993/744. It sets out the information to be given on the certificate (a P60U), which the department issues to claimants. Subparagraphs (a), (b), (c), (d), (g) (h) and (i) are based on provisions of regulation 88(4) of SI 1993/744. Subparagraphs (e) and (f) have been added to require the claimant's national insurance number and name and address. The P60U already has these. So this change in the law does not involve any change in practice.

<p><b>Q7. We welcome comments on the proposal to require the claimant's national insurance number and name and address on Form P60U. (regulation 88(3))</b></p>
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81. Paragraph (4) is based on regulation 88(5) of SI 1993/744. It specifies the information to be supplied to the Inland Revenue at the end of the year. This is the same information the department must give to claimants under paragraph (3) *plus* the amount of any underpayment indicated by a tax calculation (see draft regulation 91(4)).

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

82. Regulation 88(5)(a) of SI 1993/744 requires “such particulars as may be required for the identification of the claimant.” This has been omitted on the basis that the additional requirements in paragraph (3) of this draft regulation (see paragraph [80]) are sufficient to enable the Inland Revenue to identify the claimant.

**Regulation 89: When a claim ceases**

83. This regulation provides for a claim to end for the purposes of these regulations when the claimant ceases to be entitled to JSA. It is based on regulations 89(2)(a), (3) and (4) and regulation 91(4) of SI 1993/744 but also includes a minor change.

***Identifying the end of a claim***

84. The change is in paragraph (1). Regulation 89(1) of SI 1993/744 sets out three situations in which a claim is to be treated as terminated. These related directly to the conditions for receiving unemployment benefit. They are less appropriate to JSA which depends on different conditions (see paragraph 40).

85. The full rules relating to entitlement to the allowance are complex. For example it is possible for a jobseeker’s agreement to remain in effect at a time when an award of the allowance has come to an end (regulation 39 of the Jobseeker’s Allowance Regulations 1996). It would be impracticable to reproduce all the conditions in these regulations. So paragraph (1) defines the cessation of a claim for the purposes of the regulations as the cessation of entitlement to JSA.

<p><b>Q8. We welcome comments on the proposal to defining the cessation of a claim by reference to cessation of entitlement to JSA. (regulation 89(1))</b></p>
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***When a tax calculation is not required***

86. Regulation 89(2) is based on regulation 89(2) of SI 1993/744. It requires the department to make a tax calculation in accordance with regulation 91 when a claim ceases if the claimant’s code is to be operated on the cumulative basis. The condition about the cumulative basis is in regulation 91(4) of SI 1993/744 but has been added here to make clearer when a calculation is not required.

***Date for purposes of tax calculation***

87. Regulation 89(3) is based on regulation 89(3) of SI 1993/744. It provides that the date for the purposes of a tax calculation. is the last day on which benefit was claimed and if paid was not recoverable. But if that day is 4 or 5 April the calculation is done as if it were 3 April. This is to avoid the risk of the calculation giving claimants in some years more than their proper amount of free pay (see the comments about “week 53” at paragraphs 224–233 of the commentary to the draft regulations published in April) giving rise to excessive repayments of tax which might need to be clawed back.

88. Regulation 89(4) is based on regulation 89(4) of SI 1993/744. If the date that was used for the tax calculation proves wrong, no amendment is required to the

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

regulation 91 tax calculation. There are arguments for moving this provision into regulation 91 where it might be seen to fit better with 91(6)(b) of SI 1993/744 than here. It would put it with the calculation preventing a further one being made.

89. But there is also a prohibition on revising or re-issuing the P45. Leaving it close to regulation 89A helps with that message which is of wider application. For example an employer who pays an employee after having issued a P45 at the end of the employment must follow the procedures set out in regulation 24 and not revisit regulation 23.

**Q9. We welcome comments on the whether it is easier for readers to retain within regulation 89 the provision that a revision to the date treated as the date of cessation of claim does not give rise to an amended tax calculation (and therefore to an amended Form P45U) or whether it would be better as part of regulation 91. (regulation 89(4))**

**Regulation 89A: Cessation of claim: Form P45U**

90. This regulation requires the department to give information to the Inland Revenue and claimants at the end of a claim to taxable JSA. It is partly based on regulations 89(2)(b), (c) and (d) of SI 1993/744 and is partly new.

***Form P45U***

91. Regulation 89(2)(b) and (c) of SI 1993/744 require the department to provide information to the Inland Revenue and claimants in much the same way as regulation 23 of SI 1993/744 requires employers to provide information for the Inland Revenue and Forms P45 for employees. This draft regulation follows the approach taken in the draft regulation 23 published in April.

92. Also as with regulation 23 the different parts of the form do not constitute "copies of the certificate".

93. Further, regulation 89 of SI 1993/744 does not spell out what in practice goes on the different parts of the Form.

94. In addition two of the three Parts issued to claimants do not even refer to claims and JSA. They are the same as Parts 2 and 3 of the Form P45 used for regulation 23. This makes them easier for employers and employees to handle and preserves the claimant's confidentiality. An employer cannot by inspection see that a new employee has come off benefit rather than from another job.

95. This draft regulation refers explicitly to Parts 1 and 1A of the Form P45U used for JSA and to Parts 2 and 3 of the Form P45.

These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002

**Q10. We welcome comments on the proposal to follow the draft of regulation 23 published in April and use the labels “Form P45U” and “Form P45”. (regulation 89A)**

***Information required on P45U – non-cumulative basis***

96. Regulation 89A(2) is partly based on regulation 89(2)(b)(i) to (vi) and (viii) of SI 1993/744 and is partly new. It sets out the information that has to appear on Part 1 of Form P45U. Regulation 89(2)(b)(ii) to (vi) and (viii) of SI 1993/744 are reproduced at 89A(2)(d), (e), (h), (j) (k) and (p). As in the draft regulation 23 published in April, this draft regulation makes explicit in subparagraph (f) the requirement to indicate whether the code is to be operated on the non-cumulative basis. This is a change in law but not in practice.

***Information required on P45U – claimant’s NINO etc***

97. Regulation 89(2)(b)(i) of SI 1993/744 stipulates “such particulars as may be required for the identification of the claimant.” This has been replaced at 89A(2)(b), (c) and (m) by specific provisions for the claimant’s national insurance number, name and home address respectively. This is a change in law but not in practice.

***Information required on P45U – tax reference***

98. Regulation 89A(2)(a) is new although in practice the tax reference and a code which indicates an Inland Revenue office is shown at the top of Forms P45 and P45U. Certain claimants, such as former full time students, will have been given a special tax reference but not allocated to any Inland Revenue office. It is therefore necessary to make a qualification to that requirement.

***Information required on P45U – tax week/month***

99. Regulation 89A(2)(g) is new. While the date that an employment or claim ended is shown on the forms P45 and P45U and required by the regulations, a new employer also needs to know precisely how the tax tables were operated or calculations made at the termination if the code was cumulative. These details are to be found as the last entries on the deductions working sheet completed by the employer or the department. One of those entries is the tax week or month number used in the final calculation. It is provided for on both Forms P45 and P45U and is a requirement of regulation 23(2)(f) of SI 1993/744. But, possibly as an oversight, it does not occur in regulation 89 of SI 1993/744. This is now made good at regulation 89A(2)(g).

***Information required on P45U – self employed etc***

100. Part 1 of the P45U differs from Part 1 of the P45 in that it indicates those claimants who were previously self employed or are in receipt of an occupational pension. This appears on Part 1 only. The department obtains this information at the beginning of a claim. It assists the Inland Revenue office to find any previous record that may be held. It is not a requirement of regulation 89 of SI 1993/744. Regulation 89A(2)(l) and (m) is a change in law but not in practice.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

***Information required on P45U – benefit office***

101. As Parts 1 and 1A of a Form P45 show the name and address of the employer who completed the form so Parts 1 and 1A of a Form P45U give the name and address of the benefit office from which the form was issued. Neither regulation 23 nor regulation 89 of SI 1993/744 require this. The draft regulation 23 published in April required the employer’s address. Regulation 89A(2)(n) similarly requires the address of the benefit officer. This is a change in law but not in practice.

**Q11. We welcome comments on the proposal to require in regulation 89A the information provided in practice on the Form P45U. (regulation 89A(2))**

***Information required on P45U – tax payable***

102. Regulation 89(2)(b)(vii) of SI 1993/744 refers to “the amount of tax shown by the calculation to be payable or refundable on the amount of taxable benefit...” This is not easy to interpret as tax is not deducted from payments of JSA. While tax may be payable there can never be any tax to refund in respect of the benefit alone. The tax calculation in regulation 91 may produce an amount of tax which is either payable or refundable. (Or the calculation may show nothing if the right amount of tax, which may be none, was deducted in the year). But the calculation is only made on cumulative emoluments. There is no facility to isolate taxable benefit in order to make a separate calculation of tax liability in respect of that income separate from any other income.

103. Form P45U Parts 1 and 1A have under item 8 a second box labelled “income tax”. Whether the first box of item 8 is completed by virtue of regulation 89(2)(b)(vi) or the second part of 89(2)(b)(iv) of SI 1993/744 there can never be anything to show in the second box which obviously fits the label. Tax is never deducted from JSA by the department.

104. Regulation 89(2)(b)(vii) of SI 1993/744 was inserted as part of a wider package of changes for the purposes of self assessment by regulation 11(a) SI 1996/804. It mirrored the final words of new regulation 23(2)(h) inserted by regulation 3(a) SI 1996/804:

“if the employee has been employed in more than one employment during the year, the cumulative emoluments relating to the last employment, *and the total net tax deducted.*” (*emphasis added*)

105. It is possible that, with all the changes made for self assessment, regulation 89 was amended unnecessarily. There is no indication that the department provides figures in the second box of item 8 on Parts 1 and 1A of the P45U. Accordingly regulation 89(2)(b)(vii) is omitted from this draft regulation. This is a change in the law but not in practice.

**Q12. We welcome comments on the proposal to omit regulation 89(2)(b)(vii) of SI 1993/744. (regulation 89A)**

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

***Information required on P45U Part 1A and P45 Parts 2 and 3***

106. Regulation 89A(3) and (4) is partly based on regulation 89(2)(c) of SI 1993/744 and is partly new. It requires the department to provide claimants with certain information on Part 1A of Form P45U and Parts 2 and 3 of Form P45. As with regulation 89A(2) and the draft regulation 23 published in April, details of the information to be provided are changes in the law but not practice.

**Q13. We welcome comments on the proposal to require in regulation 89A the information provided in practice on Part 1A of Form P45U and Parts 2 and 3 of Form P45. (regulation 89A(2), (3) and (4))**

***Other information for claimants***

107. Regulation 89A(5) is based on regulation 89(2)(d) of SI 1993/744. It requires the department to send claimants a notice, in addition to the Parts of the P45, of total and taxable JSA. The department does this on a form which also advises the claimant of his right to object to the amount of allowance shown as taxable.

***How P45 Parts 2 and 3 are to be read for jobseeker's allowance***

108. Regulation 89A(6) is new but follows from making explicit how Parts 2 and 3 of the Form P45 are used for JSA. Paragraph [60] of this commentary explains how Parts 2 and 3 of the certificate provided under regulation 89 are identical to Parts 2 and 3 of the Form P45 completed under regulation 23. But Parts 2 and 3 of the Form P45 use labels which are appropriate for employments but not for JSA. So regulation 89A(6) is necessary to explain how (as a matter of law) the labels on the forms are to be read when they are used for JSA. This is a change in the law which legitimises the longstanding practice of having the same words on Parts 2 and 3 of the forms used by employers for employment and by the department for JSA.

**Q14. We welcome comments on the proposal to make clear how Parts 2 and 3 of a Form P45 are to be used for JSA under regulation 89A. (regulation 89A(6))**

***Regulation 90: Notification of taxable jobseeker's allowance adjustment***

109. This regulation applies if the amount of taxable JSA previously notified at the end of the tax year or end of the claim is subsequently adjusted. It requires the department to give claimants a revised notice of total and taxable JSA, and also to notify the Inland Revenue of the revised amounts paid or repaid. It is based on regulations 88(3) and 90 of SI 1993/744.

110. Regulation 90(1) is based on regulation 88(3) and the first part of regulation 90 of SI 1993/744. Once an end of year certificate (P60U) has been provided, or, but for the exception in 88(2) would have been provided, an adjustment in benefit does not result in the provision of a new certificate. Neither does such an adjustment following issue of a notice under regulation 89A(5) result in a fresh 89A(5) notice - or indeed a fresh P45U, see paragraphs [88-89].

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

111. Regulation 90(2) is based on the second part of regulation 90 of SI 1993/744. It provides for revised figures of total and taxable benefit to be sent to the claimant. The form on which this is done advises the claimant of his right to object to the amount of taxable benefit shown. A different form is used to advise the Inland Revenue of the amount of any adjustment.

### **Regulation 91: Tax calculation**

112. This regulation requires the department to make tax calculations at the end of a claim or of a tax year and repay to claimants any tax due to them. It is based on regulation 91(1) to (3) and (6) of SI 1993/744.

113. The regulation requires the department at the end of the claim or the end of the tax year to do much the same calculation as is required of an employer operating PAYE in the normal way when making a payment of emoluments. But it does not require it to make deductions of tax. And there are some differences in the calculation because of the way it is done at the end of a claim or a year.

114. The regulation:

- provides that the end result of the calculation will be an amount of net tax deductible at the relevant date;
- sets out other sums which need to be established as steps on the way to ascertaining the net tax deductible;
- provides that if the calculation shows tax has been underpaid the code is to be operated on the non-cumulative basis (for use by the next employer or by the department at the end of the claim); (if the calculation is at the end of the claim, by the next employer);
- provides for a repayment to be made if the calculation shows tax has been overpaid;
- defines the “relevant date” for regulation 88 and regulation 89.

### ***Interim steps in the calculation***

115. Regulation 91(1) and (2) is based on regulation 91(1) of SI 1993/744. Paragraph (1) makes explicit the two occasions on which a tax calculation is required. Paragraph (2) covers the material in regulation 91(1)(a) and (b) of SI 1993/744. But it has been simplified and shortened in line with draft regulation 14 published in April by omitting intermediate steps. The department is now to be required to calculate just two things at the “relevant date”. They are “the cumulative emoluments” and “the claimant’s total tax”. The latter is a new term used instead of “the total net tax deductible”. These terms are defined in regulation 91(5).

These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002

**Q15. We welcome comments on the proposal to simplify regulation 91 by removing the unnecessary provisions that require the department to ascertain the claimant’s cumulative emoluments, cumulative free emoluments, cumulative taxable emoluments and cumulative tax when a tax calculation is made. (regulation 91(2))**

***Tax repayments***

116. Regulation 91(3) is based on regulation 91(3) of SI 1993/744. But now the instruction to the department to repay to the claimant any overpayment of tax revealed by the calculation comes immediately after the paragraph concerning the calculation, before the paragraph setting out the action required when an underpayment of tax is discovered.

***Tax outstanding***

117. Regulation 91(4) is partly based on regulation 91(4) of SI 1993/744. Regulation 91(4)(a) is new. It provides that when the tax calculation shows an amount of tax underpaid, that amount is the “tax outstanding” for the purposes of the notifications required by regulations 88(4)(b) and 89A(2)(k).

**Q16. We welcome comments on the introduction of the term “tax outstanding” in regulations 88(4)(b) and 89A(2)(k) and the definition in regulation 91(4)(a). (regulation 91(4)(a))**

***Non-cumulative basis if an underpayment***

118. Regulation 91(4)(b) is based on regulation 91(2) of SI 1993/744. It provides that if the calculation shows an underpayment then the department must treat the code as on the non-cumulative basis. This prevents an underpayment building up if, for example, the claimant gets a job.

***Defined terms***

119. Regulation 91(5) defines terms. It is based on regulation 91(6) of SI 1993/744.

120. “Cumulative tax”, referred to as “CT” in this regulation (and also in draft regulation 14), is defined in regulation 2(1) of SI 1993/744. But that definition in terms of tax tables is not easily understood in the context of Chapter 1 Part 7. For the purposes of the regulation 91 tax calculation it may be taken as the tax figure that has to be entered on the deductions working sheet at the start of a claim under the rules given by regulation 84B.

121. Similarly “cumulative emoluments”, is defined in regulation 2(1) of SI 1993/744. But again it is felt that a definition solely for the purposes of the regulation 91 tax calculation and linked to the actual procedures that this Chapter entails, is more readily understood by readers. It is defined as the sum of the total taxable JSA and the cumulative emoluments at the start of a claim as recorded by the

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

department on the deductions working sheet in accordance with the instruction given by regulation 84B(1)(b).

122. The definition of “relevant date” closely follows that supplied by regulation 91(6) of SI 1993/744.

123. Paragraph 87 noted that “the claimant’s total tax” had for the purposes of this regulation, replaced “the total net tax deductible”. At subparagraph (a) the definition draws on material from regulation 91(1)(b) of SI 1993/744. This sets out a limit which it may be necessary to apply if the code is a “K” code. i.e. the code reflects additional pay. At subparagraph (b) the definition closely follows that supplied by regulation 91(6) of SI 1993/744 for “the total net tax deductible”.

**Q17. We welcome comments on the use of the defined terms “cumulative tax”, “cumulative emoluments”, and “the claimant’s total tax” for the purposes of regulation 91. (regulation 91(5))**

**Regulation 91A: No tax calculation required in certain cases**

124. This regulation provides that the department is to treat a claimant’s code as a code to be used on the non-cumulative basis in certain circumstances, with the result that the department does not make a tax calculation. It is based on regulation 91(4) and (5) of SI 1993/744.

125. The rule from regulation 91(4) of SI 1993/744 that a tax calculation is not to be made for cases with a non-cumulative code has been imported into the regulations about end of year procedures at 88(1)(a) and about cessation of a claim at 89(2).

126. Regulation 91(5) of SI 1993/744 gives five situations in which a claimant is to be treated by the department as if the Inland Revenue had directed the code to be operated non-cumulatively. Regulation 91A(2)(a) to (e) reproduces in the same order the situations described in 91(5)(a) to (e).

127. Regulation 91A(3) is based on the opening words of regulation 91(5) of SI 1993/744. The reference to regulation 85 reminds the reader that if, subsequent to any of these situations, the Inland Revenue has notified the department of a claimant’s code which is to be operated cumulatively, then regulation 91A will not have effect.

**Regulation 92: Death of claimant**

128. This regulation modifies the normal requirements in regulations 89 and 89A for the end of a claim to cater for the death of a claimant. It is based on regulation 92 of SI 1993/744. .

129. Regulation 92(1) is partly based on regulation 92(1) of SI 1993/744 and is partly new. The department is required to issue Part 1 of Form P45U to the Inland Revenue, indicating on the face of the form that the claimant has died. The form has a box to be marked for that purpose. This is a change in the law but not in practice.

These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002

**Q18. We welcome comments on the proposal to require the department to indicate on Form P45U Part 1 that the claimant has died. (regulation 92(1))**

130. Regulation 92(2) is based on regulation 92(1)(b) of SI 1993/744. Details of total and taxable JSA must be sent to the deceased's personal representative if known.

131. Regulation 92(3) is based on regulation 92(2) of SI 1993/744. If within 30 days of the claimant's death the department is unaware of the identity of the deceased's personal representative no tax calculation should be made. And no notice should be issued under regulation 89A(5). Regulation 92(2)(a) of SI 1993/744 refers to the inspector having made a deemed direction that a non-cumulative code should operate. Draft regulation 92(3)(a) states more directly that the department is not required to make a tax calculation.

### **Regulation 93: Finance**

132. This regulation requires the Inland Revenue to fund the repayments made by the department and requires the department to account for the money it repays. It is based on regulation 93 of SI 1993/744.

133. The department does not deduct income tax from payments of JSA. So it needs money to make repayments of tax.

## **CHAPTER 2: JOBSEEKER'S ALLOWANCE: SPECIAL CASES**

### ***Overview***

134. This Chapter deals with a small minority of claimants who receive taxable JSA under special provisions in the Jobseeker's Act and JSA regulations for employees temporarily laid off and for share fishermen. As these claimants do not move in and out of work there is no need to maintain cumulative records. The Chapter mainly requires the department, or the employer if paying JSA on behalf of the department, to give claimants and the Inland Revenue the information they need to settle the claimant's tax.

135. *Regulation 94* applies the Chapter to "Chapter 2 claimants" as the exceptions are defined in regulation 81.

136. *Regulation 95* requires the department, if paying taxable JSA, to do so without deduction and to keep records of the amount paid.

137. *Regulations 96 and 96A* make provision for an employer to pay JSA on behalf of the department; and for the employer then to operate PAYE on the payments in the same way as any other payments of PAYE income by an employer.

138. *Regulations 97 to 98* deal with the information the department must provide at the end of a tax year or the end of a claim.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

**Regulation 94: Application to Chapter 2 claimants**

139. Regulation 94 applies the Chapter only to “Chapter 2 claimants”. This is a new provision needed in consequence of the way the provisions for JSA have been divided between the two Chapters and in consequence of the definitions of claimants in regulation 81 (see paragraphs [48] and [49]).

**Regulation 95: Jobseeker’s allowance paid directly to claimant**

140. This regulation requires the department to record and pay without operating PAYE any taxable JSA it pays direct to Chapter 2 claimants. It is based on regulation 95 of SI 1993/744.

**Regulation 96: Jobseeker’s allowance paid by employer**

**Regulation 96A: Regulation 96 cases: application of other regulations**

141. These regulations make provision for JSA which is paid by an employer on the department’s behalf. They are based mainly on regulation 96 of SI 1993/744.

142. No such payments have ever been made so far as the Inland Revenue and department are aware. But they could be made in the future without the need for new social security legislation. Accordingly these provisions are retained in these draft regulations, with the department’s agreement.

143. The regulations essentially require an employer paying JSA to employees on behalf of the department to operate PAYE in the normal way as if they were paying emoluments.

144. Regulation 96A(2) is new. Regulations 97 and 98 of SI 1993/744 require the department to provide claimants with information about payments of JSA at the end of a claim or tax year. On the face of it they apply even where an employer has paid JSA. But that would be both unnecessary and unhelpful. It would be unnecessary as the claimants (and the Inland Revenue) should get the information from the employer (on P45s, P60s, P35s and so on) because the employer treats the JSA “as if it were a payment of emoluments from the employment.” It would be unhelpful as the claimants might count the same income twice for tax returns. So this draft regulation disapplies regulations 97A to 98 if an employer provides it. This is a change in the law in as much as regulation 97 is silent on the point. There is no practice as no such payments have ever been made.

<p><b>Q19. We welcome comments on the proposal to prevent claimants paid by employers getting duplicate information about taxable JSA. (regulation 96A(2))</b></p>
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145. Regulation 96A(3) provides that in cases where an employer is unable or unwilling to operate PAYE in the normal way the Board may make alternative arrangements for the collection of the correct amount of tax. No such arrangements have been made because, as already mentioned, employers have not paid JSA on

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

behalf of the department. Regulation 96A(3) is based on regulation 96(5) of SI 1993/744.

**Regulation 97: When a Chapter 2 claim ceases**

146. This regulation provides for Chapter 2 claims to end for the purposes of this Chapter when the claimants cease to be entitled to JSA. This happens when they no longer qualify as within one of two exceptional cases to which the Chapter applies. It is partly based on regulation 97(1) of SI 1993/744.

147. Regulation 97(1) of SI 1993/744 defines the termination of a claim in much the same way as regulation 89 of SI 1993/744. The comments made in paragraphs [84] and [85] apply here also. This regulation replaces the tests based on unemployment benefit with tests based on the specific conditions in the JSA regulations by reference to which Chapter 2 claimants are defined. This is a change in the law consequent to the change made in draft regulation 81.

**Q20. We welcome comments on the proposal to define the cessation of a Chapter 2 claim in terms of cessation of entitlement to JSA which depends on regulations 17 or 156 of the JSA Regulations. (regulation 97)**

**Regulation 97A: Information to be supplied at end of year**

148. This regulation requires the department, if it has paid taxable JSA to a claimant whose claim has not ceased before the end of a tax year, to provide the Inland Revenue and the claimant with details of the amounts paid. It is new as regards when the information is provided.

149. Regulation 97(2) of SI 1993/744 requires the department to provide information at the end of a claim “showing the amounts appropriate to each year.” So the requirement to give the information in respect of a tax year is not new. But that information may come a long time after the end of a tax year if the claim runs on well into the new tax year.

150. In practice however the department does provide the information after the end of the tax year, whether or not the claim has ended. It does so using a form, Form P181. The claimant’s copy of this has with it details of how a claimant who thinks the statement is wrong can make an objection. More than one year’s benefit may be shown on the form. So, if the claim were to come to an end after 5 April and before 31 May, the single form can be used to convey information for the previous tax year under this regulation and for the new tax year to the end of the claim under regulation 97B. This is a change in the law only in as much as it fixes a date by which the information is to be provided.

**Q21. We welcome comments on the proposal to require the department to provide to the Inland Revenue and the claimant by 31 May details of the benefit paid for a claim that had not ceased by the end of the tax year. (regulation 97A)**

**Regulation 97B: Information to be supplied when a claim to taxable jobseeker's allowance ceases**

151. This regulation requires the department to provide the Inland Revenue and claimants with information at the end of a claim. It is partly based on regulation 97(2) of SI 1993/744 and is partly new.

152. Regulation 97(2) of SI 1993/744 requires the department, when a claim ceases, to notify the Inland Revenue and the claimant of both the total and the taxable benefit paid in respect of the claim for each tax year in which JSA was paid. The requirement to give information at the end of the tax year introduced in draft regulation 97A means draft regulation 97B(1) need deal only with JSA paid in the tax year that the claim ceases.

153. Regulation 97 of SI 1993/744 makes no special provision for claimants who die. This draft regulation does so. Regulation 97B(1)(b) disapplies the normal requirement to give the information to the claimant. In its place regulation 97B(2) requires the department to give the information to the deceased claimant's personal representative if they are known within 30 days of the claimant's death. This is a change in the law. At present there is neither regulation nor set procedure regarding notification of benefit following the death of a Chapter 2 claimant.

**Q22. We welcome comments on the proposal to require the department, on the death of a Chapter 2 claimant, to give the claimant's personal representative details of the benefit paid if they know the personal representative within 30 days of the death. (regulation 97B(2))**

**Regulation 98: Adjustments of taxable jobseeker's allowance**

154. This regulation requires the department to inform claimants and the Inland Revenue if taxable JSA is paid or recovered after the claim has ended and a notice issued under regulations 97B(1) or 97A. It is based on regulation 98 of SI 1993/744.

155. The draft regulation includes two minor changes. First, regulation 98 of SI 1993/744 requires the department to tell claimants the revised figure of taxable JSA. This regulation requires them to tell claimants the revised figures of both total and taxable JSA.

156. Second, regulation 98 of SI 1993/744 applies only to recovery of JSA which was overpaid. This regulation also applies to further payments of taxable JSA.

157. Both changes help claimants to see how much JSA they have received and out of this how much is and is not taxable. This puts them in a better position to decide whether they agree with the figures. (The form on which the information is supplied tells claimants how to object if they disagree with the amounts.) These changes cannot affect tax liabilities and have no practical effects as they are in line with current practice.

These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002

**Q23. We welcome comments on the proposals to require the department to provide details of both total and taxable JSA paid to Chapter 2 claimants if benefit is paid or recovered after a return made under regulations 97A or 97B(1). (regulation 98)**

### CHAPTER 3: INCAPACITY BENEFIT

#### *Overview*

158. This Chapter deals with incapacity benefit. It requires the department to inform the Inland Revenue of claimants who receive taxable incapacity benefit. It then provides for tax on that benefit to be collected in one of two ways. If the taxable incapacity benefit can be taken into account in the PAYE code for another source of PAYE income the department pays the incapacity benefit without deduction of tax. If the claimant has no other source of PAYE income (a “single income claimant”) the department operates PAYE when making payments, with the minor modifications set out in this Chapter.

159. *Regulation 98A* defines terms used in this Chapter.

160. *Regulation 98B* applies specific regulations in other Parts to payments of taxable incapacity benefit.

161. *Regulation 98C* requires the department, when first paying taxable incapacity benefit to a single income claimant for whom it has no PAYE code, to operate PAYE using an “emergency IB code”. This is either the normal emergency code or a similar code which gives also the blind person’s allowance.

162. *Regulation 98D* requires the department to give the Inland Revenue information about *all* claimants (single income claimants and others) when it starts to make payments of taxable incapacity benefit. *Regulation 98DD* requires a further return if the rate of taxable incapacity benefit changes and the claimant’s code is a nil tax code.

163. *Regulation 98E* requires claimants to give the department any P45s they have when making a claim, unless the P45s are needed to make a claim for a repayment of tax.

164. *Regulation 98F* requires the Inland Revenue to set a code for the claimant on getting the return required by regulation 98D and specifies the range of codes which it can set.

#### *Background*

165. Incapacity benefit (IB) is a social security benefit payable to those who are incapable of work because of illness or disability. IB is taxable except:

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

- for the short term benefit paid at a lower rate for (usually) the first 28 weeks of incapacity. (The period may be less than 28 weeks if an employer has paid taxable statutory sick pay);
- where the recipient is over pensionable age and receives a higher rate of IB than the basic short term rate for the first 28 weeks of incapacity;
- for *ex gratia* top-up payments to people over pensionable age;
- where IB is payable to a person who was entitled to invalidity benefit prior to 13 April 1995 (when incapacity benefit replaced invalidity benefit) provided the benefit is in respect of the same period of incapacity.

166. Claimants may receive additional IB payments for dependent children. These are not taxable. Additional payments for dependent adults are taxable if the benefit itself is taxable. Age related additions to long term IB are taxable.

### **Regulation 98A: Interpretation of Chapter 3**

167. Regulation 98A contains definitions for the purposes of Chapter 3. It is based on regulations 81, 98A and 98C(2) of SI 1993/744.

#### ***Benefit, claimant, etc***

168. Incapacity benefit is defined in terms of the Social Security Contributions and Benefits Acts of 1992. This definition encompasses both taxable benefit and benefit which is not chargeable to tax.

169. “Claim” and “claimant” are defined as a claim to incapacity benefit and a person who has made that claim. A claimant may thus receive benefit which is and benefit which is not chargeable to tax either at different times or together at the same time. But the claimant will have only made one claim which results in that outcome. “Taxable incapacity benefit” is defined in terms of the relevant provisions of the draft Bill.

170. This contrasts with SI 1993/744 where the definition of incapacity benefit limits it to taxable incapacity benefit. This is felt to be confusing because a claim in practice may cover both taxable and non taxable forms of the benefit. It means “claim” means different things in the PAYE regulations and the social security legislation. And the reader of Chapter IV of Part VII of SI 1993/744 has to constantly keep in mind that references to incapacity benefit are all references to *taxable* incapacity benefit.

171. This change in definitions and how they are used causes a change in the structure of the legislation. But it is not a change in the law itself. There is no change in anyone’s obligations or in procedures as a result of the new definitions.

These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002

**Q24. We welcome comments on the proposal to define “incapacity benefit” and “taxable incapacity benefit”; and in Chapter 3 to refer explicitly to “taxable incapacity benefit”. (regulation 98A)**

***Single income claimant***

172. This draft regulation introduces the term “single income claimant”. There is no equivalent term in Chapter IV of Part VII of SI 1993/744. That legislation draws a distinction between claimants with and without another source of PAYE income by reference to the circumstances specified in regulation 98C(2):

(2) The circumstances specified in this paragraph are where for the year in question the claimant is not entitled to receive (in addition to payments of incapacity benefit) any payments of emoluments, or is so entitled but has failed to furnish any details relating to those emoluments when making his claim.

173. If a claimant comes within those circumstances then the department operates PAYE. If the claimant does not, then they do not operate PAYE, as the Inland Revenue can code out the taxable incapacity benefit against the other source of PAYE income. Chapter IV of Part VII of SI 1993/744 has five references to “the circumstances specified in regulation 98C(2)” in order to identify those claimants. It is not easy for readers to keep in mind just what it means – the more so as the test is a negative one (“the claimant is *not* entitled to receive....”).

174. These draft regulations use the term “single income claimant” to describe claimants for whom the department operates PAYE (the majority of those who get taxable incapacity benefit). It allows the regulations to be more direct and accessible.

175. The definition of single income claimant in this draft regulation reflects the fact that in practice the department also accepts as within the circumstances in regulation 98C(2) claimants who have a continuing source of self-employment income. Tax on their incapacity benefit can be collected by means other than PAYE. This is a change in the law to bring it into line with practice.

176. The regulation makes use of definitions of self employed earners to be found in social security legislation. Those definitions are:

**section 2(1) Social Security Contributions and Benefits Act 1992**

(b) "self-employed earner" means a person who is gainfully employed in Great Britain otherwise than in employed earner's employment (whether or not he is also employed in such employment)

**section 2(1) Social Security Contributions and Benefits (Northern Ireland) Act 1992**

(b) "self-employed earner" means a person who is gainfully employed in Northern Ireland otherwise than in employed earner's employment (whether or not he is also employed in such employment).

**Q25. We welcome comments on the proposal to define as “single-income claimants” those whose taxable incapacity benefit is subject to PAYE deductions in accordance with Chapter 3. (regulation 98A)**

***Department***

177. The definition of “Department” reflects the allocation of responsibilities from August 2001 for incapacity benefit in Great Britain and Northern Ireland respectively.

**Regulation 98B: Application of other regulations**

178. This regulation applies regulations from other Parts to payments of incapacity benefit with some modifications. It is based on regulations 82, 98, 98F(5), 98G and 98H of SI 1993/744.

***Explicit application of other regulations***

179. SI 1993/744 leaves largely implicit which other regulations apply in Chapter IV of Part VII. Regulation 98B of SI 1993/744 applies Parts III and IV, part of Part V and Part VIII to incapacity benefit “as if it were a payment of emoluments from the claimant’s employment.” Regulations 98F(5), 98G(2) and 98H are more explicit. But both regulations 98F and 98G apply other regulations “with any necessary modifications” leaving readers to deduce what (if any) modifications are actually necessary. This draft regulation is explicit about which regulations apply and with what modifications. This is a change in the law in as much as it removes room for dispute about which regulations apply and with what modifications. But it is in line with practice.

***Nil tax code***

180. The entry in the table at regulation 9(3), “Nil tax code”, read with the modification, provides for the Inland Revenue to determine a nil tax code for a claimant if the Inland Revenue thinks:

- no liability will arise in respect of the taxable incapacity benefit; or
- that the code which would otherwise apply would result in too much tax being deducted for that year.

181. This builds on the proposal in the draft regulations 3 to 39 issued in April to make more explicit the “nil tax code”. It is based on and replaces regulation 98G(1) of SI 1993/744.

**Q26. We welcome comments on the proposal to make explicit which regulations in other Parts apply to incapacity benefit and with what modifications. (regulation 98B(1))**

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

***How other regulations are read when applying to jobseeker's allowance***

182. Regulation 98B(2) provides how certain terms are to be interpreted when applying the regulations in other Parts. It is based on regulation 98B of SI 1993/744. That provides that, in applying certain regulations in other Parts, taxable incapacity benefit paid by the department is to be treated “as if it were a payment of emoluments from the claimant’s employment.” This draft regulation expands that to make explicit how the several terms are to be translated.

183. The left hand column of the table is provisional for the reasons given in paragraph 56.

**Q27. We welcome comments on the proposal to make explicit how terms such as “employer”, “employee” and “employment” are to be interpreted when applying regulations in other Parts to incapacity benefit. (regulation 98B(2))**

**Regulation 98C: Emergency IB code to be applied before claimant’s code issued**

184. This regulation requires the department to operate an emergency IB code on the non-cumulative basis when making payments of taxable incapacity benefit to a single income claimant for whom it has not had a PAYE code from the Inland Revenue. It is based on regulation 98C of SI 1993/744.

185. Regulation 98C(1) is based on regulation 98C(1) (a) and (b) of SI 1993/744.

186. Regulation 98C(2) is based on the remainder of regulation 98C(1) apart from the closing words.

187. Regulation 98C(3) defines an emergency IB code. It effects deduction of tax at the basic and/or starting rates after allowing for single person’s and, if appropriate, blind person’s allowance. It is based on the final words of regulation 98C(1) and regulations 98C(3) and 98C(4) of SI 1993/744.

188. Regulation 98C(4) makes explicit what is implicit in SI 1993/744 – that the emergency IB code the department is required to use is deemed to be a “code authorisation” issued to the department. If it were not then the department would not be obliged under regulation 6 to deduct tax when paying incapacity benefit and regulation 98C of SI 1993/744 would make no sense. Nor would the department be obliged to issue a P45 under regulations 23 and 27 if a claim ended or a claimant died before the Inland Revenue had issued a code under regulation 98F of SI 1993/744. This is dealt with here rather than as a modification in draft regulation 98B(1). Regulation 98C(4) thus provides a clear statement of the regulations which apply.

**Regulation 98D: Return in respect of all claimants to taxable incapacity benefit**

189. This regulation requires the department to notify the Inland Revenue on first making a payment of taxable incapacity benefit to a claimant for whom it does not have a code. It is based on regulation 98D(1) and (2) of SI 1993/744.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

190. Regulation 98D(2)(c) is new. The claimants' dates of birth help the Inland Revenue to identify them quickly and so set PAYE codes which best collect the right tax. The department already includes this information. This is a change in the law but not in practice.

191. Regulation 98D(2)(g) requires details of the code applied and if the non cumulative basis has been used. The need to show whether the non cumulative basis has been used is new. All first returns for single-income claimants should show that the non cumulative basis has been applied (regulation 98C(2)). The absence of the indicator means that it is either not a first return or not in respect of a single-income claimant. The department already includes this information so this is a change in the law but not in practice.

192. Regulation 98D(2)(h) is new. It applies to those claimants who received non-taxable incapacity benefit before taxable incapacity benefit. It requires the department to include in the return the date that payment of non-taxable incapacity benefit started. Without this information the claimant may receive from the Inland Revenue office an enquiry as to what income the claimant had available during a period between (say) pay or sick pay coming to an end and taxable incapacity benefit starting. The department already includes this information on the return so this is a change in the law but not in practice.

193. Regulation 98D(2)(i) is new. It requires the department to provide the claimant's tax reference, if known. (Not all claimants will have a tax reference.) This information is particularly useful in respect of claimants who are not single-income claimants as it enables the Inland Revenue to find quickly the office which will take responsibility for ensuring that the correct tax is paid. The department already includes this information on the return so this is a change in the law but not in current practice.

<p><b>Q28. We welcome comments on the proposals to bring the regulation into line with practice by introducing four new requirements in the information that the department must give on the return made for all claimants at the time they are first paid taxable incapacity benefit. (regulation 98D(2))</b></p>
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**Regulation 98DD: Further return only required in certain cases**

194. This regulation requires the department to make a further return to the Inland Revenue if the rate of taxable incapacity benefit changes and the claimant's code is a nil tax code. It is based on regulation 98D(3) of SI 1993/744.

195. Generally, where the department is operating PAYE, any change in the rate of incapacity benefit requires no action. PAYE is designed to cater for variations in payments. But a nil tax code will only have been set on the basis that the claimants were not going to be liable to tax on their total income. That view needs to be reconsidered when the rate of taxable incapacity benefit changes. The return required by this regulation is a signal to the Inland Revenue to reconsider.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

196. Regulation 98DD(1) is based on regulation 98D(3) of SI 1993/744. It closely follows the original except that direct reference is made to the determination of a nil tax code instead of “a determination as mentioned in regulation 98G(1)”. Regulation 98G(1) of SI 1993/744 has been replaced by the table in regulation 98B(1). That table enables the Inland Revenue to determine a nil tax code (under regulation 98F) in accordance with regulation 9(3).

197. Regulation 98DD(2) makes a minor change. It requires the department to indicate in the return that the rate of taxable incapacity benefit is a *revised* rate. This is to distinguish clearly these returns from the initial returns required by draft regulation 98D and so signal to the Inland Revenue that the code should be reviewed. This is a change in the law but not in practice as the department already includes this information.

**Q29. We welcome comments on the proposal to require the department to indicate on a further return for claimants with a nil tax code whose rate of benefit changes that it is a *revised* rate of taxable incapacity benefit. (regulation 98DD(2))**

#### **Regulation 98E: Delivery of Form P45 to Department**

198. This regulation requires claimants to give the department any P45s they have when making a claim, unless the P45s are needed to make a claim for a repayment of tax; and requires the department to pass the P45s to the Inland Revenue. It is based on regulation 98E of SI 1993/744.

199. Regulation 98E applies only to single-income claimants. This is because other claimants, with other sources of PAYE income, will generally not have a P45. For them the Inland Revenue does not need to issue a code to the department.

200. The approach taken in this Chapter allows the material in regulation 98E of SI 1993/744 to be simplified:

- “single-income claimant” replaces regulation 98E(1)(b) of SI 1993/744, “the claim is made in the circumstances specified in regulation 98C(2)” (see paragraphs 172-175);
- “has Parts 2 and 3 of Form P45” replaces “has received from an employer on cessation of employment three copies of the statement referred to in regulation 23, and is in possession of those copies immediately before the making of the claim,” (regulation 98E(1)(a) of SI 1993/744). In practice the claimant is asked to hand in Parts 2 and 3 of Form P45 however possession of them was gained;
- “the Inland Revenue office” replaces “the inspector by whom code authorisations are ordinarily issued to the Department.” The reference in regulation 98E(1) of SI 1993/744 must be to the inspector who issues codes

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

under regulation 98F of SI 1993/744. In practice that is the Inland Revenue office which deals with single income claimants. But that is a matter which can be left for agreement between the Inland Revenue and the department. The important thing is that the P45s are surrendered;

- the requirement that the claim or intended claim for repayment of tax must be in respect of “the year in which the claim to incapacity benefit is made” has been omitted. Repayment may be sought either for the year of claim or for an earlier year. Either way the claimant should apply with the Parts 2 and 3 of Form P45 to the Inland Revenue office shown on those documents.

### **Regulation 98F: Determination of claimant’s code by Inland Revenue**

201. This regulation requires the Inland Revenue to set a code for the claimant on getting the return required by regulation 98D and specifies the range of codes which it can set. It is based on regulation 98F(1) to (4) of SI 1993/744.

202. Regulation 98F(1) requires the Inland Revenue to determine the claimant’s code on receipt of a regulation 98D return for a single-income claimant. It is based on regulation 98F(1) of SI 1993/744. But the condition that the form must be in respect of a single-income claimant has been added. The returns under regulation 98D for claimants who are *not* single-income claimants are sent to the Inland Revenue offices responsible for their other PAYE income. The Inland Revenue then adjusts their PAYE codes for their taxable incapacity benefit. The department does not operate PAYE on payments of incapacity benefit to them and so does not need a PAYE code for them. This is a change in the law but not a change in practice. It will not result in the introduction or implementation of any new procedures affecting claimants.

<p><b>Q30. We welcome comments on the proposal to limit the requirement on the Inland Revenue to issue a code on receipt of a return under regulation 98D to single-income claimants. (regulation 98F(1))</b></p>
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203. Regulation 98F(2) provides for the Inland Revenue to determine codes for certain claimants who are not single-income claimants. It is new. It reflects the practice for a small number of claimants who are not single-income claimants as defined but who would or might end up with an unnecessarily large tax bill at the end of the year if the department did not operate PAYE on their taxable incapacity benefit. If the Inland Revenue considers that there is no other practical method of collecting that tax liability arising from the taxable incapacity benefit it provides for a code to be issued to the department. The department then operates PAYE on the taxable incapacity benefit.

204. Examples of situations in which this may occur are:

- where the claimant’s other source of PAYE income comes to an end;

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

- where the claimant's other PAYE income is too small for the tax arising from the incapacity benefit to be collected from it by means of a coding adjustment.

**Q31. We welcome comments on the proposal to allow the Inland Revenue to issue a code for claimants other than single-income claimants if it considers it is impractical to collect tax on the taxable incapacity benefit by other means. (regulation 98F(2))**

205. Regulation 98F(3) provides the codes which the Inland Revenue may set for the department to operate on payments of taxable incapacity benefit. The regulation replaces the general rule in regulation 7. This is because only a relatively few codes are practicable given the way that incapacity benefit is paid. The draft paragraph lists the reliefs which may be taken into account when setting the code. It is based on regulation 98F(2), (3) and (4) of SI 1993/744. The draft paragraph reorders this material apart from omitting regulation 98F(3)(ca) of SI 1993/744. That concerns the children's tax credit. From April 2003 children's tax credit will be replaced by new tax credits. So regulation 98F(3)(ca) of SI 1993/744 has been omitted as unnecessary.

## **CHAPTER 4: INCOME SUPPORT**

### ***Overview***

206. This Chapter requires the department to record payments of taxable income support, pay them without deduction of tax, and notify the claimant (or in some circumstances their personal representatives) and the Inland Revenue of the amounts paid when a claim ends.

### ***Background***

207. Taxable income support is paid in only exceptional circumstances (see clauses 653 to 657 of the draft Bill). And SI 1993/744 makes no provision for such payments. These draft regulations are included as the procedures applied in practice are much the same as in Chapter 2 of this Part and as there were provisions to this effect which did apply prior to consolidation of the regulations in 1993.

208. These regulations are in line with current practice except where noted in the commentary on regulation 99C(2) (paragraph 213).

**Q32. We welcome comments on the proposal to include provisions for payments of taxable income support. (Chapter 4)**

### **Regulation 99A: Interpretation of Chapter 4**

209. This regulation defines terms used in the Chapter.

210. The definition of taxable income support is based on the provisions which were proposed in the draft Bill. The relevant provision of the draft Bill, as revised, are:

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

### ***Income support***

#### **661 Exempt unless payable to member of couple involved in trade dispute**

(1) Income support is not income for any purpose of the Income Tax Acts unless–

(a) the income support is payable to one member of a married or unmarried couple (“the claimant”), and

(b) section 126 of SSCBA 1992 or section 125 of SSCB(NI)A 1992 (trade disputes) applies to the claimant but not to the other member of the couple.

(2) In this section “married couple” and “unmarried couple” have the same meaning as in section 137(1) of SSCBA 1992 or section 133(1) of SSCB(NI)A 1992.

#### **Regulation 99B: Recording the amount of taxable income support**

211. This regulation requires the department to record the amount of each payment of taxable income support and to pay the sum in full. It is similar to regulation 95 in Chapter 2.

#### **Regulation 99C: Information to be supplied when a claim to taxable income support ceases**

212. This regulation requires the department to tell the Inland Revenue and the claimant at the end of a claim to taxable income support both the total benefit and the total taxable benefit paid. If the claim straddles the end of a tax year separate figures must be given for each tax year.

213. Regulation 99C(1)(b) and (2) provide that if a claimant dies the information should be given to the personal representative if known to the department, within 30 days of the claimant’s death. This is based on the procedures in Chapter 2 for JSA. At present there is no defined practice regarding notification of benefit following the death of a claimant to taxable income support.

#### **Regulation 99D: Adjustments of taxable income support**

214. This regulation requires the department to inform claimants and the Inland Revenue if taxable income support is paid or recovered after the claim has ended and a notice issued under regulation 99C(1). It is similar to regulation 98 in Chapter 2.

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

**SUMMARY OF QUESTIONS IN THE COMMENTARY**

Q1. We welcome comments on the proposal to refer explicitly to JSA and to define “claim” and “claimant” accordingly. (Part 7 Chapters 1 and 2).....9

Q2. We welcome comments on the proposal to define the Chapter 2 claimant in terms of the JSA Regulations relating to those who are laid off or on short time work and share fishermen. (regulation 81) ..... 10

Q3. We welcome comments on the proposal to make explicit which other regulations apply and with what modifications to payments within Chapter 1. (regulation 82(1))..... 10

Q4. We welcome comments on the proposal to specify the 14 day period which the department allows for the production of Parts 2 and 3 of Form P45. (regulation 84(2))..... 12

Q5. We welcome comments on the proposal to allow for a 14 day period in which the department must prepare a deductions working sheet in cases where it gets no Form P45. (regulation 84C(1))..... 13

Q6. We welcome comments on the inclusion of specific information at 84C(2)(b), (c) and (e) in place of the general requirement in regulation 84(9) of SI 1993/744 for “such other particulars as may be necessary”. (regulation 84C(2)) ..... 13

Q7. We welcome comments on the proposal to require the claimant’s national insurance number and name and address on Form P60U. (regulation 88(3))..... 14

Q8. We welcome comments on the proposal to defining the cessation of a claim by reference to cessation of entitlement to JSA. (regulation 89(1)) ..... 15

Q9. We welcome comments on the whether it is easier for readers to retain within regulation 89 the provision that a revision to the date treated as the date of cessation of claim does not give rise to an amended tax calculation (and therefore to an amended Form P45U) or whether it would be better as part of regulation 91. (regulation 89(4))..... 16

Q10. We welcome comments on the proposal to follow the draft of regulation 23 published in April and use the labels “Form P45U” and “Form P45”. (regulation 89A)..... 17

Q11. We welcome comments on the proposal to require in regulation 89A the information provided in practice on the Form P45U. (regulation 89A(2))..... 18

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

- Q12. We welcome comments on the proposal to omit regulation 89(2)(b)(vii) of SI 1993/744. (regulation 89A)..... 18
- Q13. We welcome comments on the proposal to require in regulation 89A the information provided in practice on Part 1A of Form P45U and Parts 2 and 3 of Form P45. (regulation 89A(2), (3) and (4)) ..... 19
- Q14. We welcome comments on the proposal to make clear how Parts 2 and 3 of a Form P45 are to be used for JSA under regulation 89A. (regulation 89A(6))  
19
- Q15. We welcome comments on the proposal to simplify regulation 91 by removing the unnecessary provisions that require the department to ascertain the claimant’s cumulative emoluments, cumulative free emoluments, cumulative taxable emoluments and cumulative tax when a tax calculation is made. (regulation 91(2)) ..... 21
- Q16. We welcome comments on the introduction of the term “tax outstanding” in regulations 88(4)(b) and 89A(2)(k) and the definition in regulation 91(4)(a). (regulation 91(4)(a))..... 21
- Q17. We welcome comments on the use of the defined terms “cumulative tax”, “cumulative emoluments”, and “the claimant’s total tax” for the purposes of regulation 91. (regulation 91(5))..... 22
- Q18. We welcome comments on the proposal to require the department to indicate on Form P45U Part 1 that the claimant has died. (regulation 92(1)) ..... 23
- Q19. We welcome comments on the proposal to prevent claimants paid by employers getting duplicate information about taxable JSA. (regulation 96A(2))  
24
- Q20. We welcome comments on the proposal to define the cessation of a Chapter 2 claim in terms of cessation of entitlement to JSA which depends on regulations 17 or 156 of the JSA Regulations. (regulation 97)..... 25
- Q21. We welcome comments on the proposal to require the department to provide to the Inland Revenue and the claimant by 31 May details of the benefit paid for a claim that had not ceased by the end of the tax year. (regulation 97A)  
25
- Q22. We welcome comments on the proposal to require the department, on the death of a Chapter 2 claimant, to give the claimant’s personal representative details of the benefit paid if they know the personal representative within 30 days of the death. (regulation 97B(2))..... 26

*These notes refer to Part 7 of the draft PAYE regulations as at 8 November 2002*

- Q23. We welcome comments on the proposals to require the department to provide details of both total and taxable JSA paid to Chapter 2 claimants if benefit is paid or recovered after a return made under regulations 97A or 97B(1). (regulation 98).....27
- Q24. We welcome comments on the proposal to define “incapacity benefit” and “taxable incapacity benefit”; and in Chapter 3 to refer explicitly to “taxable incapacity benefit”. (regulation 98A).....29
- Q25. We welcome comments on the proposal to define as “single-income claimants” those whose taxable incapacity benefit is subject to PAYE deductions in accordance with Chapter 3. (regulation 98A).....30
- Q26. We welcome comments on the proposal to make explicit which regulations in other Parts apply to incapacity benefit and with what modifications. (regulation 98B(1)) .....30
- Q27. We welcome comments on the proposal to make explicit how terms such as “employer”, “employee” and “employment” are to be interpreted when applying regulations in other Parts to incapacity benefit. (regulation 98B(2))....31
- Q28. We welcome comments on the proposals to bring the regulation into line with practice by introducing four new requirements in the information that the department must give on the return made for all claimants at the time they are first paid taxable incapacity benefit. (regulation 98D(2)).....32
- Q29. We welcome comments on the proposal to require the department to indicate on a further return for claimants with a nil tax code whose rate of benefit changes that it is a *revised* rate of taxable incapacity benefit. (regulation 98DD(2)) .....33
- Q30. We welcome comments on the proposal to limit the requirement on the Inland Revenue to issue a code on receipt of a return under regulation 98D to single-income claimants. (regulation 98F(1)).....34
- Q31. We welcome comments on the proposal to allow the Inland Revenue to issue a code for claimants other than single-income claimants if it considers it is impractical to collect tax on the taxable incapacity benefit by other means. (regulation 98F(2)).....35
- Q32. We welcome comments on the proposal to include provisions for payments of taxable income support. (Chapter 4) .....35