



TAX LAW REWRITE

COMMENTARY ON

The Income Tax (Pay As You Earn) Regulations 2003

S.I. 2003/2682

WITH TABLES OF ORIGINS & DESTINATIONS

£18.00

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

THE INCOME TAX (PAY AS YOU EARN) REGULATIONS 2003

COMMENTARY & TABLES

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INTRODUCTION

1. This commentary relates to the Income Tax (Pay As You Earn) Regulations 2003. It has been prepared by the Tax Law Rewrite project at the Inland Revenue in order to assist readers as part of the project's normal process for rewrite Bills. The commentary does not form part of the Regulations. It is not, and is not meant to be, a comprehensive description of the contents of the Regulations. So if a regulation or part of a regulation does not seem to require explanation or comment, none is given.

2. The Tables of Origins and Destinations have similarly been prepared to assist readers. The Tables have no official status.

SUMMARY

3. The main purpose of the Regulations is to rewrite the Regulations relating to Pay As You Earn (PAYE) so as to make them clearer and easier to use.

4. The Regulations also include some changes to the legislation. These are intended to bring the legislation into line with practice and/or to make it more consistent (and so easier to understand).

GLOSSARY

5. The commentary uses the following abbreviations.

<i>abbreviation</i>	<i>short for</i>
benefit	in Chapters 1 and 2 of Part 8: jobseeker's allowance in Chapter 3 of Part 8: incapacity benefit in Chapter 4 of Part 8: income support
department	in Part 8 the Department for Work and Pensions (in Great Britain) or the Department for Social Development (in Northern Ireland)
CWG2	the Employer's Further Guide to PAYE and NICs
EDI	electronic data interchange
F(No. 2)A	the Finance (No. 2) Act
FA	the Finance Act
FSAVCS	free-standing additional voluntary contribution schemes
IB	incapacity benefit
ICTA	the Income and Corporation Taxes Act 1988 (c. 1)
ITEPA	the Income Tax (Earnings and Pensions) Act 2003 (c. 1)

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<i>abbreviation</i>	<i>short for</i>
JSA	jobseeker's allowance
NICs	national insurance contributions
PAYE	Pay As You Earn
PAYE Regulations	The Income Tax (Employments) Regulations 1993 (as amended)
PSA	PAYE settlement agreement
SI 1993/744	The Income Tax (Employments) Regulations 1993 (as amended)
SI 1994/1212	The Income Tax (Employments) (Notional Payments) Regulations 1994 (as amended)
SI 19nn/ppp	Statutory Instrument Number ppp of [year] 19nn
TMA	the Taxes Management Act 1970 (1970 c.9)

6. Terms used in the Regulations are defined in Part 1 of the Regulations.

BACKGROUND

The Tax Law Rewrite Project

7. In December 1995 the Inland Revenue presented a report to Parliament on the scope for simplifying the UK tax system (*The Path to Tax Simplification*). The main recommendation was that UK direct tax legislation should be rewritten in clearer, simpler language.

8. This recommendation was welcomed, both in Parliament and in the tax community. After further work on important practical issues and a period of preliminary consultation, the then Chancellor of the Exchequer (the Rt Hon Kenneth Clarke MP, QC) announced in his November 1996 Budget statement that the Inland Revenue would propose detailed arrangements for a major project to rewrite direct tax legislation in plainer language.

9. The project team was given the task of rewriting almost all of the United Kingdom's existing primary direct tax legislation. The aim is that the rewritten legislation should use simpler language and structure than previous tax legislation.

10. The project's remit does not include secondary legislation. But in response to requests from some employers' and other representative bodies the Paymaster General, the Rt Hon Dawn Primarolo MP, agreed that it should exceptionally rewrite the PAYE Regulations.

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Steering Committee

11. The work of the project is overseen by a Steering Committee, chaired by Lord Howe of Aberavon CH, QC. The membership of the Steering Committee as at 1 October 2003 is in full:

- the Rt Hon the Lord Howe of Aberavon CH, QC (Chairman)
- the Rt Hon Lord Mustill
- the Rt Hon Michael Jack MP
- James Plaskitt MP
- Rachel Karp
- Ian Dewar
- Ian Barlow
- Dr John Avery Jones CBE
- David Swaine
- David Hartnett CB
- Adam Broke

Consultative Committee

12. The work is also reviewed by a Consultative Committee, representing the accountancy and legal professions and the interests of taxpayers. Its members as at 1 October 2003 are:

Robin Martin	Chairman
Graham Aaronson QC	Revenue Bar Association
Derek Brownlee	Institute of Directors
Adam Broke	Special Committee of Tax Consultative Bodies
Colin Campbell	Confederation of British Industry
Russell Chaplin	London Chamber of Commerce
Malcolm Gammie	The Law Society of England and Wales
Terry Hopes	Institute of Chartered Accountants in England and Wales
Isobel d'Inverno	Law Society of Scotland
Elizabeth Lathwood	Chartered Institute of Taxation
Simon McKie	Institute of Chartered Accountants in England and Wales
Cunnie Rankin	Institute of Chartered Accountants of Scotland
Mary Fraser	Association of Chartered Certified Accountants
Simon Sweetman	Federation of Small Businesses
Wreford Voge	Chartered Institute of Taxation
Professor David Williams	Office of the Social Security Commissioners
Mervyn Woods	Confederation of British Industry

Consultation

13. All the project's work is subject to public consultation:

- early drafts of most of these Regulations were sent to interested parties and made available on the Inland Revenue web site during 2002-03;
- a complete draft of the Regulations, revised with the benefit of comments from the Consultative Committee, Steering Committee and others, was then published in April 2003 for full consultation;
- consultation on individual points continued after the formal consultation period; and
- a response document setting out the comments made and the action proposed on them was produced in October 2003.

14. The project also sought views in April 2003 on a partial regulatory impact assessment of the draft Regulations as published for consultation. A final regulatory impact assessment which takes account of the few comments from users of the legislation and others is available from the Inland Revenue.

15. Appendix 2 lists these earlier drafts and supporting papers and gives details of how they can be obtained.

16. Appendix 3 lists those who commented formally on the draft Regulations published in April or on earlier drafts (excluding those who asked that their comments be kept confidential).

Pay As You Earn

17. PAYE is the biggest part of the income tax system. For many people it is their only contact with income tax. There are 1½ million PAYE schemes (including inactive schemes). They are operated by employers, pension providers and others. They deal with around 35 million employments, offices, pensions and so on. (In the rest of this commentary, as in SI 1993/744, "employee" is generally used to mean anyone getting income within the scope of PAYE. "Employer" and "employment" should generally be read accordingly. But see paragraph 39.) Most of the £160 billion income tax and national insurance contributions collected by the Inland Revenue comes through PAYE.

18. The core of PAYE is deduction at source. This means that employers deduct tax when they make payments to employees. The amount they deduct depends on:

- PAYE tables issued by the Inland Revenue;
- a PAYE code issued by the Inland Revenue (or decided by the Regulations) for the employer to use for the employee; and

- the amount the employer pays and (usually) the total of previous payments in the tax year.
19. The PAYE code:
- gives an employee the allowances and reliefs to which the employee is likely to be entitled for the tax year;
 - subtracts any allowances needed to cover other employment income – for example, benefits in kind such as company cars; and
 - can also collect underpayments of tax from earlier years.
20. Employees remain liable for income tax on the basis of their income for the tax year. But PAYE deductions from their income are in effect “payments on account” of that tax bill. So, more often than not, employees end the year having paid the right amount of tax – or near enough the right amount for the difference to be dealt with by collecting an underpayment through PAYE in a later year (or by repaying employees if it turns out too much has been deducted). As a result the majority of employees do not have to make lump sum payments directly to the Inland Revenue.
21. The PAYE tables give employees an equal share of their allowances and reliefs each week or month. Combined with the way PAYE deductions are usually worked out using the total payments to date (the “cumulative basis”) this means that employees:
- pay tax evenly over the year; and
 - are far more likely to pay the right amount of tax by the end of the year.
22. These were objectives of PAYE from the outset.

History of Pay As You Earn

23. Deductions from pay by employers have been part of the income tax system for a very long time. For example, in 1803 tax on emoluments from public offices and employments of profit was actually assessed on the employer. The employer was, however, entitled to deduct it from the salary.

24. But the real history of PAYE as such starts in the Second World War.

25. At the start of the war, manual workers and many other employees paid tax directly to the collector at half-yearly intervals. Manual workers were permitted to spread the payments over 13 weeks by buying “income tax stamps”. Employers were not involved in this system.

26. The war saw a big increase in both the number of employees paying tax and in the rates of tax. Many found this hard. This led to the introduction in F(No. 2)A 1940 of arrangements for employers to deduct tax from pay. These arrangements were widened in 1942 to any weekly wage-earners. But they were nothing like PAYE. The tax was still assessed every six months by the Inland Revenue. The Inland Revenue then told employers how much to deduct.

27. This left a lot of problems. Payment lagged on average some ten months behind earnings. So tax due on high earnings (for example, when doing a lot of overtime) could end up being deducted when earnings were low. Changes of job from higher to lower earnings were another obvious source of difficulties. All this led to a search for a system of deductions from “current earnings”. And one which did not deduct too much – leaving perhaps millions of people with less to live on while they waited for a repayment after the end of the year.

28. The issues were discussed in a White Paper in 1942 (Cmd. 6348). That favoured sticking with pretty much the system of deductions in arrears despite its problems. But the reactions to that White Paper (and the fact that both the USA and Canada had come up with systems of deductions based on current earnings) led to a change of views.

29. Another White Paper in 1943 (Cmd. 6469) proposed what is recognisably the current PAYE system. Crucially it involved deductions based on the *cumulative* pay and tax deducted in the year. (This is still the feature which distinguishes PAYE in the United Kingdom from most other countries’ PAYE systems. All major developed countries other than France have systems of deduction of tax by employers from wages and salaries. That in the United Kingdom is at the far end of the spectrum in *requiring* cumulative calculations and in the sophistication of its codes and procedures for trying to keep codes up to date.)

30. The system was proposed only for weekly wage-earners and pensions paid by their former employers. But the legislation introduced in 1943 was extended, in response to representations, during the passage of the Bill to others earning less than £600 a year. It was enacted as the Income Tax (Employments) Act 1943 (c. 45).

31. The scope of PAYE was then further extended, before the system had come into operation, by the Income Tax (Offices and Employments) Act 1944 (c. 12) to all emoluments assessable under Schedule E (other than those payable for the armed forces).

32. The scope of PAYE was extended by subsequent Acts to all income assessable under Schedule E; and the scope of Schedule E was itself also extended to include, for example, payments to agency workers. The Regulations were extended and revised to take account of these changes to Schedule E and to wider changes in the tax system. But the basic system of codes and deductions remains.

THE REGULATIONS

33. The Regulations are divided into 11 Parts and 2 Schedules.

Part 1 (introduction) mainly defines terms used in the Regulations.

Part 2 (codes) requires the Inland Revenue to set PAYE codes. PAYE codes take account of reliefs and other PAYE income; and may also take account, if the payee does not object, of non-PAYE income and of underpayments and overpayments of tax from earlier years.

Part 3 (deduction and repayment of tax) provides for payers to deduct or repay tax when making relevant payments. They must do so using the PAYE code and tax tables. The Part also provides for the issue and receipt of Forms P45. Forms P45 pass on from employer to employer PAYE codes and details of payments and tax deducted when employees change jobs. There are also provisions for new employees who do not have a P45 and for other matters.

Part 4 (payments, returns and information) requires regular payments from employers of tax deducted. It also requires employers to make returns to the Inland Revenue after the end of the year. The returns deal with relevant payments made and tax deducted; and with other information (mainly about PAYE income other than relevant payments). The Part also provides for recovery of tax if the Regulations are not complied with; and for repayments of tax overpaid.

Part 5 (employers) provides for employers to elect to operate separate PAYE schemes for separate groups of employees; and for PAYE schemes for organised arrangements for sharing tips. It also provides for the death of an employer or a succession to a business so, broadly speaking, the personal representative or successor takes over the operation of PAYE.

Part 6 (PAYE settlement agreements) gives employers the option of agreeing with the Inland Revenue to pay “grossed-up” tax on a limited range of earnings of employees. Those earnings are then excluded from the employee’s income for income tax purposes.

Part 7 (special cases) provides simplified arrangements for deduction of tax from certain allowances paid to councillors, payments to members of the

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reserve forces, and payments by holiday pay funds. It also provides for arrangements, in certain cases, to collect tax other than by the normal PAYE system.

Part 8 (social security benefits) provides for the departments which pay jobseeker's allowance to keep records and make tax calculations which allow claimants to get Forms P45 at the end of their claims and (if appropriate) repayments of tax. It also provides for the departments to operate PAYE on payments of taxable incapacity benefit if the claimant does not have another source of PAYE income from which any tax can be collected. There are also provisions about information on payments of taxable income support.

Part 9 (assessment and self-assessment) makes adjustments for the purposes of a person's self-assessment to the amount of income tax deducted under PAYE. It also provides for adjustments to PAYE codes to collect some underpayments or to repay overpayments, if the taxpayer does not object. In addition it deals with assessments of PAYE income in exceptional cases.

Part 10 (communications) provides for some information to be provided in forms provided or approved by the Inland Revenue; and for some information to be delivered and payments to be made electronically. It also mandates the use of electronic means for some communications and payments by some employers.

Part 11 (supplementary provisions) makes miscellaneous provisions for appeals by employers required to use electronic communications and payments, for the Inland Revenue to certify certain amounts are due for payment, and for when payments by cheque are treated as made for some purposes. It also revokes previous PAYE Regulations – subject to the transitional provisions and savings in Schedule 1.

Schedule 1 (Transitional provisions and savings) ensures continuity of the PAYE system from 2003-04 to 2004-05 (apart from the minor changes made) and preserves some provisions which will be of little if any practical application for 2004-05 and later years.

Schedule 2 (revocations) lists the Regulations revoked.

COMMENTARY ON THE REGULATIONS

Part 1: Introduction

Overview

34. This Part introduces the Regulations and provides definitions of terms they use.

Approach taken in these Regulations

35. These Regulations follow the convention for Statutory Instruments by starting with the provisions for citation and commencement and then defining terms.

36. But the terms used differ markedly from those used in SI 1993/744. There are two main reasons for this:

- the Regulations use the language of ITEPA in place of that of ICTA. They also adopt language used in the PAYE tables and in practice in place of terms in SI 1993/744 which are now outdated; and
- new terms are introduced. Some are used to make clear how the Regulations apply to pensioners, agency workers and others, and to those who pay them. Others are used to align the Regulations with practice by excluding some payments from PAYE.

37. This involves changes in law as well as language. The changes are set out in detail in the commentary. But, in summary, they result from the way PAYE developed in practice.

Payments not subject to deductions

38. First, there are some payments which in strictness are (or at least might be) liable to deductions but which it has long been thought employers should not treat like other payments. So they have not been subject to deductions in practice. These practices are recognised in Inland Revenue guidance. These Regulations incorporate the practice.

“Employer”, “employee” and “employment”

39. Second, PAYE was first devised in 1943 as a scheme for payments by employers of wages to manual and weekly paid employees, and of pensions to former employees of that sort. The language of the Regulations fitted well with that.

40. In 1944, before PAYE started, it was extended to other employees and pensioners and to office holders, and also to other people making payments. This did not lead to different language in the Regulations. They still referred to “employer”, “employee” and “employment”. The language of the Regulations also continued unchanged when PAYE was extended further to cover more pensions and payments to agency workers.

41. The PAYE Regulations coped with all this because they have always defined “employer” and “employee” in the widest possible terms – anyone paying or receiving PAYE income. This means there is no issue about the basic obligation on payers to deduct tax in accordance with the Regulations. *Anyone* paying PAYE income is an “employer” as defined.

42. But there are detailed provisions about *how* payers deduct and what else they must do where the meaning of “employer”, “employee” and “employment” is not clear. And the absence of any reference in the Regulations to other people – for example, pension payers and pensioners, agencies and agency workers – does not make it easy for readers. So these Regulations set out explicitly which provisions apply to what payers and payees and with what modifications. They do so in line with practice so far as it is known.

Regulation 1: Citation and commencement

43. This provides for the Regulations to be known as The Income Tax (Pay As You Earn) Regulations 2003.

44. The titles of past Regulations have been “The Income Tax (Employments) Regulations”. That is misleading as the Regulations apply to offices, pensions and social security income as well as employments. The Regulations have also long been known as “PAYE Regulations”. These Regulations adopt that in the title.

45. The Regulations will come into force at the start of the 2004-05 tax year. This allows time for changes in language and law in the Regulations to be understood by users and reflected in guidance from the Inland Revenue and others.

Regulation 2: Interpretation

46. This regulation is based mainly on regulation 2 of SI 1993/744 with changes in law and in language to reflect practice and to facilitate changes in later regulations.

“relevant payments”

47. SI 1993/744 deals largely with “emoluments” and “payments of emoluments”. The terms are used some 280 times. But neither means what a reader coming from ICTA might expect it to mean.

48. PAYE Regulations have always defined “emoluments” to include *more* than emoluments as defined in ICTA. It included *all* kinds of income assessable to tax under Schedule E – including, for example, most pensions.

49. But since the “net pay arrangements” were introduced for pension contributions in 1972 “emoluments” for PAYE also meant something *less* than emoluments in ICTA. It is the net amount after deducting contributions to occupational pension schemes (and also, since 1986, after deducting contributions to payroll giving schemes). These “net pay arrangements” give taxpayers the benefit of immediate relief for contributions without the need for claims and repayments.

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Defining “emoluments” to mean the amount net of such contributions kept the label short and familiar. But it made even greater the differences between the meanings of the term “emoluments” in the Regulations and in primary legislation.

50. Regulation 2(3) of SI 1993/744 then provides for *payment of emoluments* to take a special meaning in the Regulations which:

- *includes* a payment on account of emoluments (as defined in regulation 2(1)); but
- *excludes* qualifying removal expenses (as employers could not practicably identify when during a year relocation benefits and expenses cross the £8,000 exemption and so become PAYE income).

51. ITEPA defines “general earnings” from an employment and “PAYE income”. Either would in some ways be a natural term to use in place of “emoluments”. But if the Regulations were to do so and follow the approach in SI 1993/744 then those words would have to be defined either to include other PAYE income or to exclude some payments. Either way, readers would inevitably be left again with the same words meaning different things in the Regulations and in ITEPA.

52. These Regulations take a different approach. They:

- start with “PAYE income” as defined in ITEPA; and
- define “relevant payments” in place of payments of emoluments to signal that not all PAYE income is relevant for deductions and repayments – see the commentary on regulation 4.

“total ... to date”

53. SI 1993/744 uses the adjective “cumulative” in six defined terms:

“cumulative additional pay”;

“cumulative emoluments”;

“cumulative free emoluments”;

“cumulative tax”;

“cumulative taxable emoluments”;

“previous cumulative tax”.

54. This is helpful in as much as it indicates the link to the “cumulative basis” of PAYE. But it is also unhelpful in that “cumulative”:

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- is not plain English;
- is not used in the tax tables; and
- may suggest these terms are only relevant when deductions are made on the cumulative basis – a false impression as, for example, a P45 for an employee with a non-cumulative code must still show the “the cumulative emoluments relating to the last employment”.

55. So in this regulation these terms have been defined as “total payments to date” and the like.

“cumulative basis” and “non-cumulative basis”

56. The Regulations continue to use “cumulative” to indicate whether deductions are made on the cumulative or non-cumulative basis. Both terms are widely used and understood in practice.

57. Neither term is actually used in SI 1993/744. Those Regulations refer instead either to the application of regulation 14 (under which cumulative deductions are made) or regulation 17 (the provision under which non-cumulative deductions are made). By defining the terms in regulation 2 these Regulations can be more direct. For example, where regulation 25(7) of SI 1993/744 provides:

(7) Where the statement indicates that regulation 17 has been applied, ...

regulation 43(11) can provide:

(11) If Parts 2 and 3 of Form P45 show that the non-cumulative basis has been used...

“employee”, “employer”, “employment”, “pensioner”, “pension payer”, “pension”, “agency” “agency worker”, “other payer”, “other payee”

58. These terms are redefined or introduced to enable the Regulations to make explicit how they apply to persons other than “real” employers and employees. See the commentary on regulations 10 to 12 on pages 23 to 29.

“Inland Revenue” and “Inland Revenue office”

59. The Regulations convert references to the “inspector” and “collector” to “the Inland Revenue” – defined to mean any officer of the Board of Inland Revenue. As a result, the provisions affected will expressly authorise or require things to be done by or in relation to an officer of the Board instead of by or in relation to an inspector or collector. This is consistent with tax legislation since the mid-1990s when the previously separate networks of Inland Revenue collection and tax offices were merged. The Capital Allowances Act 2001 and ITEPA included similar changes.

60. This is only a minor change in the law because a similar result could be achieved by section 1(2B) of TMA. That provides that persons who are not inspectors

or collectors may exercise functions conferred on inspectors or collectors if, in accordance with the Board's administrative practices, they have been authorised to act as an inspector or collector for those purposes.

61. The Regulations generally do *not* replace references to the Board in SI 1993/744 by references to the Inland Revenue. This recognises that the primary legislation requires and empowers the Board to make the Regulations. It is also partly a matter of using a different term to signal things which are not decentralised (for example, the design of Form P45).

62. But there are a very few places where the Regulations do replace references to the Board by references to the Inland Revenue – mostly where the work is decentralised and ITEPA has already recognised this by providing for the Inland Revenue (as defined) to exercise the function. This too has less effect than might be thought as section 4A of the Inland Revenue Regulation Act 1890 (which was introduced by FA 1969) provides that any function conferred on the Board by or under any enactment may be exercised by any officer of the Board acting on their authority. The functions under the provisions affected by the conversion of references to the Board have in fact already been devolved in this way. The Board itself is no longer directly involved in their exercise.

63. As a consequence of getting rid of references to “inspector”, references in regulations 25 and 98E of SI 1993/744 to “the inspector by whom code authorisations are normally issued” have been replaced by references to “Inland Revenue office” as defined in regulation 2. This is also a very minor change in the law as the provisions in question concern only where employers send information, and so require information to be sent to an “office” rather than an individual officer.

64. This change (*Change 1*) has no implications for the amount of tax paid, who pays it or when. Nor does it affect administrative matters in practice.

65. Each of the provisions affected by the conversion of references to the inspector, collector or the Board is identified in the Table of Origins by a reference to this change. But, because of the large number of such references, the change is not mentioned in the rest of this commentary on the Regulations.

“employer reference”, “employer’s PAYE reference”, “Inland Revenue office number”

66. These terms are defined so the Regulations can set out the information required in forms in practice. See paragraphs 302 to 304 on page 59. The terms “employer reference” and “Inland Revenue office number” are not used in the Regulations other than to define “employer’s PAYE reference” but are used in practice in guidance.

“objects”

67. This new term allows the Regulations to refer naturally to things which the Inland Revenue may do “unless the taxpayer objects”. See, for example, regulations 14 and 186.

“reliefs from income tax”

68. Regulation 2(1) of SI 1993/744 has:

“reliefs from income tax” includes allowances and deductions but not allowable superannuation contributions;

69. This regulation omits the exception for superannuation contributions. This is part of a change in the law (*Change 2*) to deal consistently with deductions for pension schemes and payroll giving. See paragraphs 74 to 81 on page 17.

“trade dispute”

70. The relevant legislation is reproduced here in accordance with the project’s usual practice. The wording is identical in the two enactments:

““trade dispute” means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises, or not;”

Regulation 3: Net PAYE income

71. This regulation defines “net PAYE income” as a stepping stone on the way to the definition of “relevant payment”. It is based on part of regulation 2(1) of SI 1993/744 (“emoluments” and “allowable superannuation contributions”) with a minor change.

72. *Paragraph (2)* includes the minor change. The “net pay arrangement” for pension contributions was introduced by SI 1972/1186 for contributions which were made to an employer’s scheme and allowed to be deducted as an expense under Schedule E. But provisions for “free-standing” additional voluntary contribution schemes (FSAVCS) were introduced from 1987 by Finance (No.2) Act 1987. A FSAVCS is a scheme which is established by the employee and is completely separate from the employer’s scheme. The contributions are usually made by employees direct to the FSAVCS. The employee deducts tax at the basic rate when making a contribution and the scheme claims this tax back from the Inland Revenue. In summary, they are outside the “net pay arrangement”.

73. On a literal reading of SI 1993/744 any payments by an employer must be reduced by contributions to a FSAVCS to arrive at “emoluments” as defined for PAYE purposes. It would however be impossible for an employer who knows nothing about the scheme and contributions to it to make such a reduction. If an employer were to get information about such contributions and do so the employee would end

up with an underpayment of tax as a result of getting relief twice over – once through PAYE and again by withholding tax from the contributions.

74. It is implicit in SI 1993/744 that the “net pay arrangement” applies only to contributions withheld from payments. This regulation makes it explicit.

75. In SI 1993/744 superannuation contributions are also relevant to another definition in regulation 2(1):

“reliefs from income tax” includes allowances and deductions but not allowable superannuation contributions;

76. This definition was amended by SI 1972/1186 to exclude allowable superannuation contributions when the net pay arrangement was introduced. It appears this was intended to prevent pension contributions being taken into account in setting a code under what is now regulation 7 of SI 1993/744. It would clearly be inappropriate to do so. The employee would get relief through both the code and the net pay arrangement.

77. The fact that “reliefs from income tax” excludes relief for pension contributions may have been overlooked when the provisions for reservists and holiday pay were introduced by SI 1975/91 and SI 1981/1648. Regulations 62, 66 and 75 of SI 1993/744 refer to “reliefs from income tax” where, in context, it would be wrong to take no account of pension contributions. But it may have been concluded that the context clearly required a different (but still wide) meaning of reliefs from income tax.

78. The effect on the definition of reliefs for contributions to a FSAVCS also appears to have been overlooked. As it stands, it prevents any account being taken of such contributions in the regulations.

79. Another anomaly is that the definition deals differently with pension contributions and payroll giving. But both give rise to deductions from PAYE income; and both are given effect through net pay arrangements. There is no logical reason for excluding one but not the other. The difference can however be explained in terms of the different histories:

- the net pay arrangements for pension contributions replaced adjustments to PAYE codes so it was natural to exclude them from what can be taken into account in setting codes;
- the net pay arrangements for payroll giving were introduced from the start of payroll giving so no one would ever expect codes to be adjusted for them.

80. These Regulations follow the model of payroll giving. “Reliefs from income tax” is defined in regulation 2 without regard to pension contributions. That definition is left to apply for regulations 14, 125, 130 and 138.

81. This is a change in the law (*Change 2*) which in principle excludes contributions to FSAVCS from the net pay arrangements and includes pension contributions in reliefs from income tax for the purposes of other regulations. But it is in line with practice and so has no practical effect.

Regulation 4: Relevant payments

Regulation 6: Relevant pension payments

82. Regulation 4 defines the payments from which deductions of tax are made (subject to the details of the Regulations, the employee’s code and the tax tables). It is based on regulation 2(3) of SI 1993/744 but includes changes in law and in language to reflect practice. Regulation 6 defines a subset of relevant payments for use where these Regulations make different provision for pensions.

83. Payments of *social security income and UK social security pensions* are generally not dealt with by the PAYE system. Any tax on that income is usually collected by adjusting PAYE codes for use with other sources of PAYE income. Exceptions are the special arrangements for jobseeker’s allowance and incapacity benefit in Part 7 of SI 1993/744 (Part 8 of these Regulations). *Paragraph (1)(a) and (b)* makes this clear.

84. PAYE is not operated on payments of *excluded relocation expenses* because it would be impracticable for employers to keep track of relocation expenses and benefits so as to know when in the year the £8,000 exemption was exceeded. This exclusion was introduced by SI 1993/2276 and is maintained in this regulation. But it is expressed differently.

85. First, regulation 2(3) of SI 1993/744 makes an exception to the exclusion for regulation 46(2)(b) of SI 1993/744. When introduced (by SI 1993/2276) this was an understandable reminder that taxable relocation expenses which were not subject to PAYE had still to be reported on Forms P11D or P9D. But it is not *necessary* to provide for this. Regulation 2(3) is operating on what counts as *payments* of emoluments. Regulation 46(2)(b) is concerned with *emoluments*, which always covered more than payments. So the exception is omitted from this regulation as unnecessary.

86. It might be thought that a pointer to the way relocation expenses are not excluded from regulations 85 to 89 (which deal with Forms P11D and P9D) would nevertheless help readers. But to be consistent any such pointer would have to refer not just to relocation expenses but also all the other payments excluded by this regulation from payments for PAYE purposes. That is likely to confuse rather than help. And new readers are unlikely to get confused about relocation expenses and

Forms P11D/P9D now that these Regulations use distinct terms rather than variations on “emoluments”.

87. Second, regulation 2(3) of SI 1993/744 operates only on such payments as are emoluments. This regulation, in response to representations, excludes *all* payments in respect of removal expenses to the extent they are payments of net PAYE income. This makes the regulation simpler without changing its effect.

88. PAYE is not operated in practice on *some other payments to employees for business expenses* (for example, some allowances for travel). If the Inland Revenue are satisfied that they will be matched by deductions that the recipients can claim at the end of the year, the Inland Revenue may tell employers they can simply return the payments on Forms P11D or P9D at the end of the year (see regulation 85). This is mentioned in the Inland Revenue’s guidance for employers but is not dealt with in the Regulations. This regulation makes explicit provision for this practice. Regulation 5 defines what expenses are excluded.

89. This new provision is in addition to an employer’s right to seek a “dispensation” from the Inland Revenue for expenses payments which will definitely not give rise to any tax liability. A dispensation means the expenses payments neither count as payments for PAYE purposes nor need to be returned at the end of the year.

90. Regulation 5 and this regulation include anti-avoidance provisions in the definitions of “excluded business expenses”, “excluded notional payments” and “excluded pecuniary liabilities”. This is because:

- the new provisions deal with substantial amounts (at least in the case of business expenses). There were (in 1998-99) some £1 billion of expenses payments. They include such things as mileage allowances for which there is no dispensation (possibly because they exceed the statutory rates). Although dispensations are very much encouraged by the Inland Revenue not all employers have them for all their expenses payments;
- the new provisions are a good deal simpler as a result. Drawing precise lines in the Regulations between what is excluded and what is not could otherwise involve complex legislation. But some dividing line is needed as some employers have in the past been quick to exploit gaps in the scope of PAYE.

91. The net effect of the new provisions is wholly “relieving” in the sense of taking things out of PAYE which would in law otherwise be subject to deduction of tax.

92. PAYE is similarly not operated in practice where a payment is made to a third party to meet a liability – for example, an employer who pays the telephone bill an employee gets for a line at home which is in the employee’s name. Such things are commonly known as payments to meet employee’s “pecuniary liabilities”. That is

why the regulation uses the label “*excluded pecuniary liabilities*” rather than what might appear to be a plainer phrase (for example, “*excluded financial liabilities*”).

93. However this practice does not extend to such things as an employer awarding an employee a bonus of (say) £100,000 and then, instead of paying that bonus to the employee, meeting the personal bill they have had for, say, £100,000 worth of gold bars.

94. Chapter 4 of Part 11 of ITEPA treats an employer as making a payment of PAYE income in some circumstances. These circumstances include the use by an employee of an employer-provided voucher or credit card to obtain a readily convertible asset. But in practice the Inland Revenue do not expect employers to apply PAYE where an employee uses a voucher or credit card to obtain readily convertible assets on behalf of an employer. During consultation on drafts of the legislation in ITEPA users asked that this practice be incorporated in legislation. This regulation does so by defining “*excluded notional payments*”.

95. Excluding these payments from “*relevant payments*” is a change in the law (*Change 3*) which in principle puts back the time tax is paid. But it cannot affect the amount of tax due¹ and, as it is in line with practice, is expected to have little if any practical effect.

The label “relevant payments”

96. The label used in this regulation is important. “*Relevant payments*” aims to remind readers it means less than what might otherwise be seen as a payment (because of the net pay arrangements and the excluded payments).

¹ This statement must be qualified to the extent that whether a payment is a “*relevant payment*” *might* affect who pays some tax.

It might be thought that changes to the PAYE regulations are incapable of affecting tax liabilities. PAYE is essentially a system of payments on account of the income tax liability (or at least of so much of the income tax liability as relates to PAYE income) of the person liable for tax on the payments. Changes to PAYE cannot affect an employee’s total income or the tax on that income.

In exceptional cases however an employer or other person making a payment of PAYE income may be required to account for the tax they ought to have deducted but did not; and the person liable for the tax may be entitled to a credit against their income tax liability for what should have been deducted but was not. See Part 9 of these regulations. This arises only very rarely as it does not apply if the employer or other payer makes an error in good faith despite having taken reasonable care. It does not affect the underlying income tax liability of the recipient of the income. But it does affect the net amount which they are required to pay.

In that context it is in principle possible for a change to PAYE which affects what is a relevant payment, or required to be deducted or accounted for in respect of relevant payments, to affect employees’ net income tax liabilities.

97. The drawback of the label “relevant payments” is that it is colourless and so gives readers no clue as to what is and is not “relevant”. But consultation showed that there was no other term which did not have its own disadvantages; and that users felt the term was acceptable.

Regulation 5: Excluded business expenses

98. This regulation defines what expenses are excluded from relevant payments (and so are not subject to deductions of tax). It is introduced as part of the change (*Change 3*) in regulation 4. It reflects the Inland Revenue’s practice as set out in the Employer’s Further Guide to PAYE (CWG2). That tells employers that the Inland Revenue may be prepared to authorise the employer to pay without deducting PAYE a round sum allowance which is clearly meant to do no more than reimburse an employee for an expense actually incurred in doing his or her job, and incurred only because of the job. However, before doing this, the Inland Revenue will need to be satisfied that the allowance is equivalent to the reimbursement of actual expenses.

Regulation 7: Meaning of “code” etc

Regulation 8: Employee’s code

99. These regulations give the meaning of a “code” and an “employee’s code”. They are based on parts of regulations 2, 6, 13, 29, 30, 32 and 98C of SI 1993/744 with two minor changes.

100. First, SI 1993/744 provides for the inspector to determine that tax should be deducted at the basic or higher rate, or that no tax should be deducted. As these are not “codes” as such SI 1993/744 has to be circumlocutory and do a deal of deeming. Users in practice are much more direct. Employers, employees and the Inland Revenue refer routinely to the “basic rate code”, “higher rate code” or “nil tax code”. Regulation 7 defines these as special codes. These Regulations can then use the terms which are used in practice. This change (*Change 4*) brings the law into line with the way users refer to these “codes” but does not affect the circumstances in which the “special codes” are used or the amount of tax deducted.

101. Second, regulation 8 then gives the meaning of “employee’s code”. This takes the place of “code authorisation” in SI 1993/744. It is how most people refer to codes issued to employers for use when paying employees. It includes a minor change to allow notices of codes to be sent to an employer’s agent (as is provided for in regulation 13 of SI 1993/744 for *amended* codes). This is a change in the law (*Change 5*) but not in practice.

102. The provisions of regulation 6 of SI 1993/744 for electronic delivery of codes are dealt with in regulation 213 in Part 10 along with other provisions for communications.

Regulation 9: PAYE threshold

103. This regulation defines the threshold at which some employers must start operating PAYE. It is based on regulations 18 and 28 of SI 1993/744 with a minor change.

104. Regulation 28(1) of SI 1993/744 requires new employers to take certain steps (typically sending the Inland Revenue Form P46 and operating PAYE) if:

a payment is equivalent to emoluments at a rate exceeding the minimum rate.

105. The minimum rate is defined as 1/52 of the personal allowance or, for employees paid monthly or at longer intervals, 1/12 of the allowance (in each case rounded to the nearest pound). Those are not *rates* as such but *amounts*. So it is not clear how the employer is meant to use them. For example, it appears to leave employers to look at each *payment* in isolation – and to do so without giving them any guidance on what period they should use. This could lead to odd results if payments are made other than only at regular intervals of weeks or months.

106. There is a way of reading regulation 28 of SI 1993/744 which removes some of those anomalies. It is to read it as a test *applied* payment by payment but looking at the *rate of that and previous payments*. That is sometimes possibly the result of applying regulations 18 and 19 of SI 1993/744 (which in certain circumstances deem payments as made at dates other than the dates they are actually made). But that does not provide an answer in all circumstances to the question over what period the employer is to aggregate.

107. There is no definitive answer in SI 1993/744. But in the context of the Regulations as a whole one reading of regulation 28 makes most sense. That is to require employers to compare a *rate* arrived at from the aggregate payments in the period between normal payments with a “*threshold*” arrived at according to the length of that interval. This:

- fits with regulation 28 of SI 1993/744 which defines a rate for “an employee who is paid monthly or at longer intervals” which points to having regard to the interval;
- fits with regulation 21 of SI 1993/744 which provides, for non-cumulative codes, that the tax to be deducted in any week or month is calculated on the sum of all payments in that week or month – a provision which regulations 31 and 34 of these Regulations extend to cater for other regular intervals;
- allows employers with monthly payrolls to compare the total payments in a month with a monthly threshold without having to do further sums;
- avoids anomalies; and

- is also consistent with practice, and with the policy of aligning the thresholds for PAYE and NICs.

108. This regulation accordingly provides rules for employers to decide whether a payment takes an employee over the PAYE threshold. The rules are much longer than in SI 1993/744. But they are unambiguous and clear. They give employers a common approach for PAYE as for NICs. They use the term “PAYE threshold” which is used in practice.

109. The approach here also has in common with NICs the way that a payment interval always starts at the start of the tax year. This is something which is clear in SI 1993/744 for weekly or monthly paid employees. It is not clear for employees normally paid at other intervals. It follows however from the way regulation 18 of SI 1993/744 provides that:

Where emoluments are paid at regular intervals other than regular intervals of a week or a month ...any payment of such emoluments shall be deemed for the purposes of these Regulations to be made on the date on which it would have been made if a payment had been made in the last day of the preceding year.

110. The effect of this is that an employee normally paid, say, every 3 months has those payments treated as made on the 5 July, 5 October, 5 January and 5 April. So the natural periods to look at to see if payments exceed the PAYE threshold are the periods from 6 April to 5 July and so on. This regulation makes this explicit.

111. This is a change in the law (*Change 6*) in that it removes the ability for an employer to argue that the threshold should be calculated in a different way. But it is expected to have little if any effect in practice.

Regulations 10 to 12: Application to payers and payees

112. These regulations set out how the PAYE Regulations apply to persons other than employers and employees. As indicated in paragraphs 39 – 42 on page 11 they are new and involve a change in the law.

113. PAYE Regulations mainly tell employers and employees (and the Inland Revenue) what they must or may do. SI 1993/744 uses “employee” (and variants) 300 times and “employer” 370 times. Regulation 2(1) of SI 1993/744 defines them:

“employee” means any person in receipt of emoluments;

“employer” means any person paying emoluments.

114. So the words:

- do not take their normal legal meaning in the Regulations;

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- do not take a commercial meaning (for example, no one would ordinarily talk of “employing” a pensioner); and
- do not mean the same as in other tax legislation (including the legislation for employment, pension and social security income in ITEPA).

115. In addition the definitions are preceded by the caveat “unless the context otherwise requires”. So readers cannot count on the defined meanings. But they equally are given no clue as to where the context requires that the words mean something else or what that something else might be.

116. There is no definition of “employment” in SI 1993/744. That and variants (“employ”, “employed”) are used over 80 times. It is not clear where, and to what extent, it takes its meaning from the defined terms or from the primary legislation or stands alone.

117. This does not affect the obligation on payers to deduct. The Regulations still lead to deductions however “employer”, “employee” and “employment” are read. But the meanings in context do affect:

- what pension payers, agencies and other payers who are not “real” employers do at the start of a pension (the Form P45 and P46 procedure) and the end (issuing Forms P45);

and that in turn affects:

- the amount of tax deducted from payments – at least until the Inland Revenue issues a code;
- whether pensioners, agency workers and others get details of payments and tax at the end of the year (Form P60) or the end of a pension etc (Form P45); and
- who gets what information during the year (Forms P45, P46) (which in turn affects when the Inland Revenue can issue a code to try to get the right tax deducted) and at the end of the year (Forms P9D and P11D) (which affects when payees and the Inland Revenue can check the right tax has been deducted).

118. The many questions which could be raised on the meanings in specific provisions have not had the benefit of judicial interpretation. Cases such as *Andrews v King* (64 TC 332, [1991] STC 481) and *Clark v Oceanic Contractors Incorporated* (56 TC 183, [1983] STC 35) considered whether or not a person was an employer for the purposes of the PAYE Regulations but did not turn on the presence or absence of a “real” employment.

119. The point was touched on in the case of *Booth v Mirror Group Newspapers plc* ([1992] STC 615). The High Court (QB) upheld the definition of employer and decided that what is now regulation 28 of SI 1993/744 required a third party to deduct tax from payments.

120. The facts were that Mirror Group Newspapers (MG) agreed with Booth, a potential employee of Pergammon Media Trust (P) (an associated company) that MG would make payments to Booth on the ending of his employment with P. Booth's employment with P ended in September 1991. MG paid Booth as agreed. It deducted basic rate tax. Booth took legal proceedings against MG arguing that it was not entitled to deduct tax since he had never been an employee of MG. Hobhouse J concluded there was an obligation to deduct. After considering the regulations which apply only if an employer has a code he addressed the question:

Is there then a regulation which does cover the position of a third party one-off payer of a taxable emolument? I am persuaded that reg 20 [*now regulations 28 to 34 of SI 1993/744*] does cover such a situation. It is headed 'Employee for whom appropriate code not known'.

and after quoting the then regulation continued:

Thus para (1) states a category which is wide enough to cover the situation and paras (3)(c) [*now reg 31*] and (5)(a) [*now reg 31(4)*] give the basic rate of tax as providing the fall-back position for the making of the deduction. The statutory obligation in s 203 to make a deduction can be performed 'in accordance with' the regulations.

121. However earlier in his judgment Hobhouse J also commented:

Similarly the taxpayer's argument is supported by the fact that in most of the regulations it is clear that what is contemplated is an actual employment relationship between the employer and the employee and that the wider interpretation which would arise from the literal application of the definitions cannot be adopted: it would be inconsistent with the context in which the expressions employer and employee are being used in those regulations. For instance, reg 3 [*now revoked*] relates to what are described as 'intermediate' employers and reg 18 [*now mainly regulations 23 and 25 of SI 1993/744*] deals with the situation where an employer ceases to employ an employee. Wherever the regulations use the word employ or employment it is probable that they must be referring to an actual employer/employee relationship. It is also clear from the scheme of the 1973 regulations as a whole that they contemplate that such an actual relationship will exist.

122. These comments are important as indicating one view of the law. But the Court did not need to address in the context of that case all the arguments to the contrary given that the application of the Regulations led to a requirement to deduct tax. Those arguments are in summary the legislative history, the intention when PAYE was extended, and the anomalies which result from reading "employment" narrowly.

123. *The legislative history* starts with the 1943 Act (see paragraph 30 on page 8). That provided for a PAYE scheme only for manual and weekly paid employees and pensions paid to such workers by their former employers.

124. When PAYE was extended by the 1944 Act to office holders and others it could easily have been limited to payments made by employers (in the normal, legal sense of the word). But it was not. On the contrary the primary legislation was explicitly cast in wider terms to include all payments of Schedule E income to employees and office-holders including crown servants, and their pensions. In that context there are two possible views on the intention of the Regulations in 1944. They were either:

- intended to establish in effect distinct PAYE systems for real employees on the one hand and, for example, pensioners, directors and other office-holders on the other with no Forms P45 and P60 for the latter; or
- “employment” was intended to be read in the context of the definitions of employer and employee and so include offices and pensions.

125. Given PAYE had just been extended to offices by the 1944 Act it would be surprising if the drafter of the Regulations did not have them in mind. While “employment” is a wider term than “office”, the former cannot be said always to encompass the latter.

126. The intention of subsequent legislation which extended the scope of Schedule E was often stated to be (or to include) bringing payments within PAYE. For example, when the remuneration of agency workers was brought within Schedule E by F(No. 2)A 1975 it was seen as bringing them within PAYE like employees. That is also how the legislation has been read.

127. The anomalies which result from reading regulations which mention “employment” or “employ” as excluding any relationship other than one of “real” employer and employee are many. The position of office holders would be called into doubt. But setting that aside:

- agency workers, pensioners and others would not be entitled to Forms P45 giving detail of payments and tax deducted. So they might have no record of relevant payments and tax deducted should they need to make a tax return. They would not have evidence to claim a repayment from the Inland Revenue during the year. And no record of their PAYE code to take when starting a new job;
- agency workers and others would not be required to hand in Forms P45 and agencies and others would not be required to use them. The position of pensioners and pension payers would be unclear as regulation 26 of SI 1993/744 envisages pension payers getting Forms P45 from new pensioners but regulation 25(1), reading employment narrowly, does not require pensioners to hand them over;

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- no one other than a “real” employee would be entitled to a Form P60 at the end of the year. Regulation 39 of SI 1993/744 requires a P60 only for someone “who is in his employment on the last day of the year”;
- only “real” employers and employees would be subject to the P46 procedures which provide an initial PAYE code and information for the Inland Revenue to set a code. Many others would be subject to deduction at the basic rate;
- a pension payer or agency could not elect to operate separate PAYE schemes for separate groups of pensioners or workers;
- the provisions for deductions at the basic rate in regulation 24 of SI 1993/744 for payments made after an employment has ceased would not apply to payments to pensioners, agency workers and other payees; and
- the Inland Revenue would need to issue PAYE codes every year to pension payers and other payers as the PAYE code is carried over under regulation 8 of SI 1993/744 only for “an employee who was in his employment on the 5 April in the year preceding”.

128. There is the additional possibility that “employer” and “employee” should be read as taking the meanings defined in SI 1993/744 and that “employment” takes a separate meaning. Then, for example, agency workers are treated as carrying out the duties of an employment held by the worker with the agency, and as having earnings from that employment (see section 44 of ITEPA). That deeming would appear to establish an employment for the purposes of the Regulations given the intention was to bring such payments within PAYE. That view would be consistent with the judgment in *Marshall v Kerr* (67 TC 56, [1994] STC 638). Lord Browne-Wilkinson approved as “the correct approach to deeming provisions” the passage from the judgment of Peter Gibson J in the CA:

I take the correct approach in construing a deeming provision to be to give the words used their ordinary and natural meaning, consistent so far as possible with the policy of the Act and the purposes of the provisions so far as such policy and purposes can be ascertained; but if such construction would lead to injustice or absurdity, the application of the statutory fiction should be limited to the extent needed to avoid such injustice or absurdity, unless such application would clearly be within the purposes of the fiction. I further bear in mind that, because one must treat as real that which is only deemed to be so, one must treat as real the consequences and incidents inevitably flowing from or accompanying that deemed state of affairs, unless prohibited from doing so.

129. These are issues at the margins of the PAYE system in practice. But the PAYE system does apply in practice to less usual payments (as evidenced by the judgment in *Mirror v Booth*). There are many permutations of who pays whom and under what legislation but examples of the spectrum are:

- employers paying their employees;
- pension payers paying their pensioners;

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- agencies paying their agency workers;
- employers making payments to someone else's employee;
- clients making payments of earnings directly to agency workers;
- receivers making payments of earnings to former employees (for whom there are some special provisions – see regulation 37);
- “relevant persons” treated as making payments to employees of non-UK employers (see section 689 of ITEPA);
- someone who is neither employer, pension payer nor agency making payments (which may be payments of employment income or pension income) on behalf of another person (who may or may not be an employer, agency or pension payer).

130. Many of the possible combinations of payer, payee and payment arise very rarely. Practice (if there is a general practice) for all of them is not known. But it is generally the case that in practice pension payers and agencies do comply with the regulations for Forms P45, P46 and P60. (But for agencies the practice is not to issue a Form P45 at the end of every engagement. That saves unnecessary work where an agency worker moves on to another client of the same agency and maintains cumulative deductions to the worker's benefit.)

131. Leaving all this uncertain in these Regulations would have conflicted with the objective of making the law clearer. So regulations 10 to 12 set out how the regulations apply to payers and payees other than employers and employees. This is a change in the law (*Change 7*) to the extent it removes scope for argument about the application of the regulations to persons other than employers and employees. *In principle* it may affect:

- *payers* as to the amount of tax they deduct until the Inland Revenue issue a PAYE code; and their obligations to provide information to payees and/or the Inland Revenue in Forms P45, P46, P60 and (for agencies if they provide benefits in kind) P9D and P11D;
- *payees* as to the information they are entitled to have about payments, tax deducted and other income to make tax returns or to claim repayments (or tax credits); and
- *the Inland Revenue* as to when they would get information to issue PAYE codes and to check the right tax has been paid.

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132. The effects in practice are thought likely to be very much smaller than the list above might suggest. The vast majority of employers, pension payers, agencies and others will see no change in practice.

Regulation 10: Application to agencies and agency workers

133. This regulation sets out in detail the regulations which do not apply to agencies and agency workers. The regulations excluded are those for:

- personal employees where the regulation deals with direct employment of an individual;
- termination awards and PAYE settlement agreements which cannot apply to agencies and agency workers in any event under the relevant primary legislation. Specifying them here is essentially a service to readers who might otherwise think they could apply; and
- the special (and so far never used) arrangements for employers to pay JSA as it might be impracticable for an agency to do so: if the agency worker is between engagements the agency would not be making payments.

134. Other regulations, including regulations requiring returns of other earnings, are applied to agencies and agency workers as to employers and employees. These include regulations 85 to 90, 94 and 95. The provisions of SI 1993/744 on which these regulations are based require employers and others to provide information to the Inland Revenue and to employees about earnings not subject to PAYE deductions (including expenses payments and benefits in kind). They use “employer” in a context which appears to require it to take a meaning other than that defined in regulation 2(1) of SI 1993/744.

135. SI 1993/744 provides no guidance on whether “employer” includes “agency” in those circumstances. Specific provision has been made to treat an agency as an employer in relation to an agency worker for some purposes of PAYE (section 688 of ITEPA) and for requiring information (section 16A of TMA). That might suggest that, in the absence of further provision, “employer” in the relevant regulations does not encompass an agency. On the other hand it might be argued that these regulations should be read in context to treat an agency as an employer, having regard also to the benefits code in ITEPA for which section 66 of that Act defines “employer”.

136. There is also the context in which regulations 46 and 46AB of SI 1993/744 were introduced (by regulation 4 of SI 1995/1284). As set out in a consultation document in 1994, the intention was to make sure taxpayers had information about benefits in kind and other income not dealt with by PAYE to put on tax returns if they were required to make them. If agencies were excluded from that requirement, agency workers would be left in a difficult position – and a different position from employees. They might get the information from agencies on a voluntary basis but would have no right to do so.

137. The Inland Revenue would also not get automatically the information to check agency workers have paid neither more nor less than the right tax. But the Inland Revenue (unlike agency workers) could then get it using section 16A TMA to require returns.

138. Applying the regulations in question to agencies and agency workers is therefore expected to have little if any practical effect (and that only on agencies which provide benefits in kind or other PAYE income not in the form of payments and currently do not give information about them to agency workers). But it is an aspect of the change (*Change 7*) involved in making clear the application of the Regulations.

139. *Paragraphs (2) and (3)* make an additional change in the law. This change (*Change 8*) is intended to reflect the practice of agencies not issuing Forms P45 at the end of each engagement (which might be every few weeks or days) but only when the agency worker's relationship with the agency ends or the worker has not been paid for 3 months.

Regulation 11: Application to pension payers and pensioners

140. This regulation sets out in detail the regulations which do not apply to pension payers and pensioners. The exclusion of the regulations for Forms P45 and P46 for employers is because these Regulations include separate provisions for pension payers and pensioners in Chapter 3 of Part 3.

Regulation 12: Application to other payers and payees

141. This regulation sets out in detail the regulations which do not apply to other payers and payees.

142. Paragraph (3) reflects the fact that the provisions dealing with trade disputes may apply to an "other payer" – for example, a person paying on behalf of the employer. But they cannot only apply to "other payees".

Part 2: Codes

Overview

143. Part 2 deals with the ways in which employees' codes are set and changed. The employer uses the employee's code to work out how much tax should be deducted from relevant payments to the employee (or repaid to the employee). The Part provides for:

- the Inland Revenue to set a code (regulations 13 to 15);
- an employer to carry forward a code from one year to the next in the absence of a new code from the Inland Revenue (regulation 16);
- the Inland Revenue to notify an employee of the code unless it is unchanged or changed only because of changes in personal allowances (regulation 17);

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- an employee to object and, failing agreement, to appeal against a code (regulations 18);
- the code to be changed if circumstances have changed since it was set (regulations 19 and regulation 20).

Background

144. The history of the regulations on which Part 2 is based was set out in detail in the second progress report on PAYE Regulations to the project's Consultative and Steering Committees in April 2002. That is available still from the project or from www.inlandrevenue.gov.uk. That material is not repeated in this commentary.

Regulation 13: Determination of code by Inland Revenue

145. This regulation requires the Inland Revenue to determine an employee's code. It is based regulation 7(1) of SI 1993/744.

Regulation 14: Matters relevant to determination of code

146. This regulation sets out how the Inland Revenue must determine a code (other than a flat rate code under regulation 15). It is based on regulation 7 of SI 1993/744 with three minor changes.

147. First, *paragraph (1)* provides that the Inland Revenue *must* have regard to the matters set out in the regulation so far as known to them. Regulation 7(1) of SI 1993/744 provides that the inspector "*may* have regard to any of the matters specified". That might suggest a degree of discretion – for example, to ignore one or more of the matters. This change (*Change 9*) removes the scope for a person (including the Inland Revenue) to argue that some matter listed, while known, should be ignored.

148. Second, *paragraph (1)(f)* allows the Inland Revenue to take into account income of the employee other than PAYE income, unless the employee objects. This is known as "coding out" the other income. It might be thought that regulation 7(2)(b)(i) of SI 1993/744 already provides for this. From the start of PAYE in 1944 codes have been adjusted to take account of other income. The intention to do so was made clear ahead of the legislation for PAYE in the White Paper in 1943. But the contrary view could be argued. So this regulation makes the position clear. It also gives employees a new, explicit right to object to non-PAYE income being taken into account. This change (*Change 10*) brings the law into line with practice.

149. As part of the same change these Regulations provide similarly for the Inland Revenue to take account of income other than PAYE income:

- when deciding whether tax should be deducted from payments to reservists (regulation 125);
- when making a repayment to a reservist during a tax year (regulation 130); and

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- when making a repayment to an employee who has had tax deducted from payments from a holiday pay fund (regulation 138);

subject in each case to the same right for the employee to object.

150. *Paragraph (3)* reflects the change (*Change 120*) made in regulations 186 and 187 for the way underpayments are dealt with in the Self Assessment system. See paragraph 891 on page 142.

Regulation 15: Flat rate codes

151. This regulation provides for the Inland Revenue to set codes that require employers to deduct tax at the basic or higher rate or not to deduct tax at all in certain circumstances. It is based on regulation 9 of SI 1993/744 with four minor changes.

152. First, *paragraph (1)* changes the conditions for a higher rate code. Regulation 9 of SI 1993/744 provides for an inspector to determine the higher rate code:

if he has reason to believe that the employee will be chargeable at the higher rate on *some part* of his total income (*emphasis added*).

153. On the face of it that allows the higher rate code to be set if the employee's total income exceeds the basic rate band by just £1. This is neither what was intended nor what happens in practice. For example, an employee with just one source of income does not need a higher rate code: the normal operation of PAYE gives the employee allowances and then collects tax at the starting, basic and higher rates. Higher rate codes are used where the employee's personal allowances and the lower and starting rate bands are used (or very nearly used) by one source of income, leaving another source of income which is in effect mainly or wholly liable to higher rate tax.

154. Paragraph (1) reflects this. It provides for a higher rate code to be set only if the Inland Revenue have reason to believe that at least a substantial part of the income from the employment for which the code is set will be liable to higher rate tax. This is a change in the law (*Change 11*) in so far as it restricts the Inland Revenue's ability to set a higher rate code but does not change practice on the use of such codes.

155. Second, *paragraph (2)* provides explicitly for the basic rate code. Regulation 9 of SI 1993/744 does not provide for it. Nor does it fit easily within the definition of a code in regulation 2(1) of SI 1993/744 which can be determined under regulation 7 of SI 1993/744. Yet the basic rate code (or its predecessor, the standard rate code) have been used since 1944. It is typically used for an employee who has more than one employment; will have allowances and the starting rate band used by the income from one employment; but will not pay tax at the higher rate. The basic rate code then gets the right tax from the other employments. This change (*Change 12*) brings the legislation into line with practice.

156. Third, *paragraph (3)(a)* changes one of the circumstances in which the nil tax code may be determined. Regulation 9(2)(a) of SI 1993/744 provides for a nil tax code if the income will be assessable under Schedule D. This often arises, for example, with members of professional practices who hold offices (such as directorships) with clients. “Schedule D” is expected to be replaced as a defined term in future rewrite Bills. So this regulation provides for a nil tax code if the income will be taken into account as other than PAYE income. In theory this goes wider than regulation 9 of SI 1993/744. But it is not thought this change (*Change 13*) will have any effect in practice.

157. Fourth, the definition of the special codes in regulation 7) allows this regulation to be more direct than regulation 9 of SI 1993/744 which must deem the inspector’s determination to be the determination of a code. They are now “proper” codes which need no deeming.

Regulation 16: Continued application of employee’s code

158. This regulation avoids the need for the Inland Revenue to issue, and employers to handle, notices of codes which do not change from one year to the next. It is based on parts of regulation 8 of SI 1993/744.

159. This regulation omits as unnecessary regulation 8(3) and (4) of SI 1993/744, which related solely to 1993-94. The provisions in regulation 8(5) of SI 1993/744 are dealt with in regulation 20.

160. This regulation also omits as unnecessary the provision in regulation 8(2) of SI 1993/744 which requires the employer to act in accordance with regulations 6(1) and 38(1) to deduct tax and maintain a deductions working sheet. Those obligations follow automatically from the issue of a code.

161. Regulation 8 of SI 1993/744 refers to “the code for the preceding year”. However different codes may be determined for the year at different times. It is implicitly the code in use at the end of the tax year. *Paragraph (2)* of this regulation makes this explicit.

Regulation 17: Notice to employee of code

162. This regulation requires the Inland Revenue to tell an employee the code set for a year if it is different from the code for the previous year other than because of changes to the main personal allowances. It is based on regulation 10 of SI 1993/744.

163. Regulation 10(1) of SI 1993/744 refers to the code “for the preceding year”. *Paragraph (2)* of this regulation refers to the code as at the previous 5 April. This is another aspect of the point mentioned in paragraph 161.

Regulation 18: Objections and appeals against employee's code

164. This regulation gives an employee the right to object to a code and to appeal to the independent appeal Commissioners. It is based on regulation 11 of SI 1993/744 with four minor changes.

165. First, regulation 11 of SI 1993/744 provides that an employee may object to a code only if “aggrieved”. In practice no employee is required to show any sense of “grief” about a code. This regulation omits the need for employees be aggrieved. This change (*Change 14*) brings the legislation into line with practice. It is also made in regulations 119 and 126. See paragraphs 643 and 671 on pages 110 and 113.

166. Second, this regulation allows employees to object to and appeal against all determinations of codes, including those set by the appeal Commissioners. Regulation 11(1) of SI 1993/744 allows an employee to object to the determination of a code only if it is “the inspector’s determination”. This change (*Change 15*) brings the legislation into line with practice.

167. Third, it might be thought that regulation 11(5) of SI 1993/744 does not permit the appeal Commissioners to determine a flat rate code. It provides for them to determine the code having regard to the same matters as the inspector may have regard to when the inspector determines the code. This wording reflects regulation 7 of SI 1993/744. So it might be thought to deny the Commissioners access to the special codes provided for in regulation 9. However, that would lead to anomalies. Any employee with a higher rate code could appeal. The Commissioners could then not determine that code no matter what the circumstances. So it is more likely that the deeming in regulation 9(3) of SI 1993/744 would be taken to extend also to regulation 11 of SI 1993/744 so as to allow the Commissioners to determine a flat rate code. *Paragraph (4)* makes it clear that they can do so. This change (*Change 16*) brings the law into line with practice.

168. Fourth, *paragraph (5)* provides that, if there is no place of employment, the default body of Commissioners is that for the division in which the taxpayer lives. Regulation 11 of SI 1993/744 provides only that the appeal (in the absence of any election or agreement) should be heard by the Commissioners for the division in which the employment is situated. But there may be no “place of employment” – for example, for a pension. It also removes any doubt about an employee’s right to elect for an appeal to be heard in the area where the employee lives (or where the employee has a place of business). This change (*Change 17*), also made in regulation 127 (see paragraph 675 on page 113), brings the law into line with practice.

169. This regulation omits as unnecessary regulation 11(4), (6) and (7) of SI 1993/744. They apply section 44(2) of TMA; apply provisions dealing with the conduct of appeals; and provide for appeals to be final subject to those provisions (and regulation 11 of SI 1993/744). But none of that is necessary. Appeals against PAYE codes are appeals under the Income Tax Acts so the legislation mentioned applies without the need for further provision.

Regulation 19: Amendment of code

170. This regulation allows the Inland Revenue to amend codes if circumstances change. It is based on regulation 12 of SI 1993/744 with a minor change.

171. Regulation 12(2) of SI 1993/744 requires the inspector to notify the employee of the new code:

not later than the date on which the notice under regulation 13(1) or the code authorisation, as the case may be, is issued to the employer.

172. This wording is unnecessarily complicated as regulation 13(1) of SI 1993/744 requires the inspector to give the employer a notice of any amended code which meets the definition of “code authorisation” in regulation 2(1) of SI 1993/744. So *paragraph (3)* of this regulation refers simply to the date on which the notice under regulation 20(1) is issued.

173. *Paragraph (6)* provides for objections and appeals if the Inland Revenue do not agree that circumstances have changed and so refuse to amend the code. This fills a gap in SI 1993/744 (although the same result is achieved in most cases by an appeal against the original code). This change (*Change 18*) brings the legislation into line with practice.

Regulation 20: Notice to employer of amended code

174. This regulation deals with the way the employer is told of a change to an employee’s code. It is based on regulations 8(5) and 13 of SI 1993/744.

175. Regulation 13(5) of SI 1993/744 provides that, if an inspector tells an employer to amend a code for a future year to reflect a change in personal allowances, the code “shall be deemed to have been determined by the inspector ... for that year”. It is left for regulation 8(5) of SI 1993/744 to provide that in such cases the code is also “deemed to have been issued by the inspector”. It makes little sense to split these provisions. *Paragraph (7)* of this regulation provides that the code is treated as both determined and issued.

176. Regulation 13(5) of SI 1993/744 also provides that if a code is determined all the provisions in the regulations concerning objections, appeals, the deduction of tax and so on apply. That is unnecessary. It follows from deeming a code to have been determined and issued. So that provision is omitted from this regulation.

Part 3: Deduction and repayment of tax

Overview

177. Part 3 deals with the deduction and repayment of tax by employers, and the information that passes between employers, employees and the Inland Revenue for the operation of PAYE.

178. *Chapter 1* requires employers to use PAYE codes and tax tables to deduct or repay tax when making relevant payments to employees. It also requires employers to give employees and the Inland Revenue information (in Form P45) at the end of employment. It also provides steps for employers to take on the death of an employee. And it requires new employees to give their new employers Forms P45 if they have them.

179. *Chapter 2* deals with the start of an employment other than a pension and *Chapter 3* with the start of a pension (for which there are somewhat different procedures). They require the new employer or pension payer to use any Form P45 given to them to get a PAYE code and to notify the Inland Revenue of the new employee or pensioner. If no Form P45 is provided they set out when the employer or pension payer must operate PAYE and which PAYE code to use; and require information to be sent to the Inland Revenue (in Form P46) so the Inland Revenue can if necessary issue a PAYE code.

180. *Chapter 4* requires employers to maintain records and to give employees still employed at the end of the year information about relevant payments and tax deducted or (in respect of notional payments) accounted for. It also provides for repayments during the year by employers to employees on unpaid leave and by the Inland Revenue to unemployed people. It prevents repayments in circumstances involving trade disputes.

Background

181. An early draft of this Part was included in the second progress report made to the project's Consultative and Steering Committees in April 2002. That included more details of the history of some of the regulations in Part 4 of SI 1993/744, on which this Part is based. It is available from the project or from www.inlandrevenue.gov.uk.

Omission of regulation 22 of SI 1993/744

182. Regulation 22 of SI 1993/744 (tax-free emoluments) is omitted from these Regulations as unnecessary. This is a change in the law (*Change 19*) but not in practice.

183. The wording of regulation 22 of SI 1993/744 is unchanged through successive consolidations from the original PAYE Regulations:

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

184. This has rarely been commented upon. The comments that have been made tended to see the regulation as a requirement to "gross up" payments which are made "free of tax". This is thought to be both right and wrong.

185. It is right in as much as an employer in practice has to gross up a payment in order to comply with *both* an agreement between the employer and employee to pay “free of tax” *and* the PAYE Regulations, which require deductions from relevant payments.

186. It is thought to be wrong in the sense that, on close examination, regulation 22 by itself appears only to require that an employer treat a payment of tax as a payment that must be added to others for PAYE purposes.

187. This conclusion is supported by the context in which the regulation was introduced. There were then a wide variety of agreements between employers and employees under which the employer paid some or all of an employee’s tax. There was also specific tax legislation dealing with such arrangements in section 26 of FA 1941 (modification of provisions for tax-free salaries, pensions, etc). That applied if employers were required to pay employees’ income tax. Broadly speaking, it limited employers’ obligations to the tax they would have paid without the wartime increases in income tax rates. This was so that the employees concerned contributed to the war effort in the same way as other employees.

188. The drafters of the original PAYE Regulations had such payments in mind, as well as a wide variety of other arrangements. In the absence of any specific provision, payment of tax by the employer would have had these consequences:

- the tax would be assessable income of the employee. If an employer pays an employee’s tax bill that is an emolument assessable under Schedule E;
- there would be an increase in the amount assessable (as emoluments from the employment) to be included in the Schedule E assessment made after the end of the year;
- the assessment would give rise to an underpayment for the tax year in which the payments were made; and
- the employer would then have to make a further payment in the following tax year.

189. The further payment in the following year would start the cycle again. So the process would continue until the employment ceased.

190. The PAYE Regulations (with what became regulation 22 of SI 1993/744) broke out of this cycle by requiring the tax paid by the employer to be added to the pay for PAYE purposes. The regulation does not in itself *require* the employer to “gross up” the payment. But if the employer were to fail to do so then the employee would have to pay “tax on the tax paid”.

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
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Example

An employer is required to pay an employee's income tax of £100 in 1944-45.

The employer pays £100 to the Inland Revenue.

The £100 must be added to the employee's other pay for PAYE purposes. That increases the PAYE deductions by £50 (given the tax rate then was 10 shillings in the pound).

If the employer wants to spare the employee from paying tax on the tax paid by the employer the employer must also pay the employee *another* £100. The PAYE position then is:

payment of tax (treated as payment by what is now regulation 22)	£100
payment of income to employee	<u>£100</u>
total	<u>£200</u>
PAYE deductions on £200 @ 10 shillings in the pound	£100
tax paid by the employer	<u>£100</u>
net payment to employee	<u>nil</u>

191. On this basis the wording of regulation 22 of SI 1993/744 is more readily understood. And the heading of the regulation – “tax-free emoluments” – can also be more readily understood within the context of the side heading to section 26 of FA 1941 (see paragraph 187).

192. This is not to imply that other arrangements for tax-free payments were not considered when PAYE was introduced. They were. But it was also recognised then that the arrangements varied greatly, so it would be a matter for employers to arrive at ways to gross up payments in order to comply with *both* their contractual obligations to employees *and* the PAYE Regulations. For example, an employer who undertakes to pay an employee £1,000 “free of tax” may intend that:

- a) the employer will pay the tax on £1,000 on some *conventional assumptions*, as was common in 1944 but is less so now;
- b) the employer will pay *any tax* arising on the £1,000 – which can only be established after the end of the year when the employee's overall liability is known, and requires the employer to know the employee's overall income and personal circumstances; or
- c) the employer will pay such an amount as leaves the employee with £1,000 “*cash in hand*” after PAYE deductions.

193. If the employer undertakes to give an employee a sum as in (c) the employer must then pay such sum as leaves the employee with that amount after the deductions (if any) the employer must make in accordance with the PAYE Regulations. For example, an employer who undertakes to give an employee £1,000 net of deductions may have to make a relevant payment of £1,667 from which the employer deducts £667 if the employee's code is the higher rate code; or of £1,000 if the employee's free pay to date covers the payment. It all depends on the employee's code and on any previous payments in the tax year.

194. This result might be arrived at on the basis of regulation 22 of SI 1993/744 by looking at the arrangement as if the employer paid £1,000 and also paid the tax that ought to be deducted from £1,000; and then paid the tax on the tax; and paid the tax on the tax on the tax; and so on. But there are, on close examination, difficulties with this interpretation:

- it is an unnecessary complication. The employer's agreement to leave the employee with a net £1,000 leaves no other options. The employer can only *both* meet that obligation *and* comply with the PAYE Regulations by finding the amount that, after deductions, leaves the employee with £1,000. Regulation 22 of SI 1993/744 is not needed to achieve that. This view is supported by the decision in *Jaworski v Institution of Polish Engineers in Great Britain Ltd*, CA 1950, 29 ATC 385; [1951] 1 KB 768. That concerned a company which had agreed to pay an employee remuneration "without any deduction and taxes, which will be borne by" the employer. The Court of Appeal held that the agreement was for an amount of pay that, after deduction under PAYE, left the employee with the specified sum.
- regulation 22 of SI 1993/744 does not by itself go quite so far. It does not deem the payment of the tax to be a payment on which the employer *must* meet the employee's tax (which would lead inevitably to "grossing up"). It only deems the amount on which the employer must operate PAYE "to be such a sum as will include the amount assessable on the employee in respect of the payment ...". In contrast provisions (admittedly more modern) which do, in exceptional circumstances, require grossing up are more direct: an example is section 687(3) of ITEPA.

195. Finally, regulation 22 might alternatively be seen as requiring an exception to the way pecuniary liabilities are not subject to deductions of tax (see paragraph 92 on page 19). There are no differences in practice between an employer paying an employee's personal telephone bill direct to the phone company and an employer paying direct to the Inland Revenue an employee's "tax bill". To that extent one aspect of regulation 22 is maintained by regulation 4. That excludes payments of pecuniary liabilities from PAYE excepting:

- payments made in fulfilment, in whole or in part, of the employee's right to a sum of money; or

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- payments that are, or are part of, an arrangement to avoid PAYE.

Chapter 1: Deduction and repayment

Overview

196. This Chapter sets out the main provisions for employers to deduct tax when making payments.

Approach taken in this Chapter

197. Regulations 14 to 19 of SI 1993/744 are highly interdependent. Take a fairly unusual set of circumstances (so as to keep within the strict scope of SI 1993/744): an employer who pays an employee's wages every 2 months starting on 15 April. Supposing also a PAYE code used on the cumulative basis then:

- regulation 14 of SI 1993/744 requires the employer to deduct tax by reference to the cumulative emoluments at the date of the payment: *15 April*; but
- regulation 18 treats that payment as if it were made on *5 June* (in the second income tax month); and
- regulation 19 treats a payment of overtime made on 10 April (before 15 April) as made at the date the main wages are paid – that is not 15 April but *5 June* again, the date given by regulation 18.

198. Now suppose the circumstances are as in paragraph 197 but the code is used on the non-cumulative basis. This introduces another layer of deeming:

- regulation 17 of SI 1993/744 treats the payment of wages as made on the first day of the tax year; but
- regulation 18 treats it as made two months after the preceding 5 April – that is, in month 2 (so the employee gets 2 months' worth of allowances);
- regulation 19 treats overtime as paid then too; so
- regulation 14 then applies as if all the payments were made in month 2 for the purposes of calculating the tax to be deducted or repaid.

199. The last point may need some comment. Regulation 14 provides what is commonly known as the cumulative basis and regulation 17 the non-cumulative basis. Regulations 14 and 17 appear mutually exclusive. Regulation 17 provides

(2) Where this regulation applies regulation 14 shall not apply, but the employer, on making any such payment, shall deduct, by reference to the appropriate code, the amount of tax which would have been deductible if the payment had been made on the preceding 6th April.

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
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200. But regulation 17 works *through* regulation 14. Regulation 17 treats each payment as made on 6 April (subject to regulations 18 and 19). But this is for the purposes of regulation 14.

201. Then regulation 21 of SI 1993/744 requires the employer to aggregate all payments made in a week or month.

202. The net effect is that regulation 14 of SI 1993/744 applies *without* cumulation *across* a week or month but *with* cumulation of relevant payments *within* a week or month. Otherwise too much tax would be deducted when more than one payment is made in a week or month. An example may help with this.

Example of regulation 17 applying regulation 14

Suppose an employer:

- has a non-cumulative code for an employee;
- normally makes relevant payments weekly and pays the normal wages of £300 on 12 May 2004 (the 2nd day of the 6th tax week);
- also pays overtime of £100 (in respect of earlier weeks) on 11 May (the 1st day of that tax week).

The employer must deduct tax in accordance with the code on paying the overtime as if it were paid on 6 April (regulation 17 of SI 1993/744). Suppose that gives £10 tax to be deducted.

When paying the normal wages on 12 May the employer must deduct tax by reference to the aggregate of payments in that week (regulation 21 of SI 1993/744) – that is £400. Suppose that gives tax of £110. That is tax in respect of both the overtime and the normal wages.

But the normal operation of regulation 14 means the employer only deducts the difference of £110 - £10 = £100. That is the *extra* tax due in respect of the £300 wages. It is only the application of regulation 14 to arrive at the amount to be deducted which prevents the full £110 being deducted – in effect taxing the employee twice on the payment of overtime.

203. The way regulation 14 of SI 1993/744 is disapplied but then used as if the tax year started again every week or month would have become even less clear with changes to reflect the long-standing practices of giving employees paid other than weekly the benefit of regulation 17 of SI 1993/744 for “extra pay days” (see regulation 31) and to apply regulation 19 of SI 1993/744 to employees paid at regular intervals of less than a month.

204. These Regulations take a different approach. They provide for the non-cumulative basis (regulations 26 to 31) to work separately from the cumulative basis (regulations 22 to 25). This allows the Regulations to make clearer the effects of aggregation for the non-cumulative basis and the treatment of “extra pay days”. Regulations 22 to 31 also make some minor changes in the law in order to provide a coherent system for both the cumulative and non-cumulative bases. These reflect

practice. They also benefited from comments after the end of the formal consultation process.

Regulation 21: Deduction and repayment of tax by reference to employee's code

205. This regulation requires employers to deduct or repay tax by reference to the employee's code if they have one when making relevant payments to employees. It is based on regulation 6(1) to (3) of SI 1993/744.

Regulation 22: The cumulative basis

206. This regulation requires employers to deduct or repay tax on the cumulative basis unless told otherwise. It is based on regulation 14(1) of SI 1993/744.

Regulation 23: Cumulative basis: deduction and repayment

207. This regulation tells employers how to deduct or repay tax on the cumulative basis. It is based on regulations 2(1) ("previous cumulative tax"), 14 and 15 of SI 1993/744 with three minor changes.

208. First, *paragraph (3)* requires employers to determine the total tax to date (TT) on making a payment. Regulation 14(1) of SI 1993/744 requires the employer to ascertain three other amounts: the cumulative emoluments, cumulative free emoluments or cumulative additional pay, and cumulative taxable emoluments. These are intermediate steps in calculating the cumulative tax (which becomes TT in this regulation). The requirement to do this is omitted from this regulation (and similarly from regulation 161 (tax calculation) for JSA). This is a change in the law (*Change 20*) only to the extent that it allows the many employers who use computers for PAYE to do so without, in principle at least, being required to look at intermediate figures. It does not affect the results of the calculations or have any other effect in practice.

209. Second, *paragraph (9)* is new. It deals with a change from the non-cumulative basis to the cumulative basis. The first application of regulation 14 of SI 1993/744 in such circumstances presents employers with a dilemma. They are required by regulation 14(2) to know the previous cumulative tax. But they have not previously calculated any such figure.

210. If employers were to calculate a figure using the total payments to date and the employee's previous code (but on the cumulative basis) they would arrive at a figure which might well be less than the total tax deducted (if the employee's earnings had fluctuated across rate bands). But it might also be more than the tax deducted (if the employee's code had changed earlier in the year).

211. If they were to calculate a figure using the new code then the effect of the change of code would be largely negated. The employee might well not get a repayment which should be due.

212. Paragraph (9) provides for the next deduction or repayment to be based on the total net tax deducted. This makes sense, and is what happens in practice. It means the employer works out the tax due on the cumulative basis using the new code and total payments to date. The employer compares that with the tax deducted previously on the non-cumulative basis. The employer restores the cumulative basis of deduction, making any repayment which is due to the employee on that basis. This is a change in the law (*Change 21*) to remove uncertainty about what employers must do and bring it into line with practice.

213. Third, *paragraph (10)* is also new. It repairs some missed consequentialia from the introduction of K codes. For example, regulation 25 of SI 1993/744 provides for a new employer who gets a Form P45 from a new employee:

- (3) The action specified in this paragraph is that the employer shall—
- (a) prepare a deductions working sheet in accordance with the particulars given on the copies of the statement; and
 - (b) **record on the working sheet the cumulative emoluments** shown on the copies of the statement.
- (4) The action specified in this paragraph is that the employer shall **record on the deductions working sheet or keep such records as enable the production of** the following particulars, namely—
- (a) save where the code contained in the statement reflects additional pay, the cumulative free emoluments, the cumulative taxable emoluments and **the corresponding cumulative tax** as at the week or month shown on the copies of the statement;
 - (b) where the code contained in the statement reflects additional pay, the cumulative additional pay, the cumulative taxable emoluments and **either the cumulative tax as at the week or month shown on the copies of the statement or the total net tax deducted** shown on the copies of the statement, whichever is the less.
- (5) The action specified in this paragraph is that, subject to paragraph (7), the employer shall, on making any payment of emoluments to the employee, **deduct or repay tax** by reference to the appropriate code in accordance with regulation 14, and keep the records required by paragraphs (3) and (4) of regulation 38, **as if the cumulative emoluments and cumulative tax shown on the deductions working sheet prepared in accordance with paragraph (3) above represented emoluments paid to the employee by the new employer and tax deducted by him.** (*emphases added*)

214. There is a manifest gap here as regulation 25(5) refers to a figure of cumulative tax on the deductions working sheet which the employer does not have to record on the deductions working sheet. With a K code there may not even be a figure of cumulative tax from paragraph (4). And even if it were recorded, treating it as tax deducted by the new employer does not make it previous cumulative tax for the purpose of regulation 14 of SI 1993/744.

215. This arises from regulation 9 of SI 1992/3180. That amended SI 1973/334 to introduce K codes. Prior to that regulation 18(3) of SI 1973/334 had required the new

employer to record in a deduction card a figure of cumulative tax on receipt of a Form P45 and deduct as if that cumulative tax were tax deducted by the new employer. That could only sensibly be read as meaning the new employer must treat the cumulative tax recorded as “previous cumulative tax” when making the first relevant payment.

216. This cannot be repaired simply by restoring the position prior to K codes. The amendments made by SI 1992/3180 were necessary to take account of the operation of the overriding limit. But K codes have operated in practice without difficulty on this point by employers treating the figure of tax arrived at in accordance with regulation 25(4)(a) or (b) of SI 1993/744 as the previous cumulative tax to start off deductions on the cumulative basis. That is what paragraph (10) of this regulation and regulation 43(10) provide.

217. Essentially the same point arises with regulation 34 of SI 1993/744, which deals with a Form P45 given late to a new employer. Regulation 34(2) is intended to restore cumulative deductions (taking account of both payments made by the old employer and those already made by the new employer). It provides:

...the cumulative emoluments and total net tax deducted immediately before the payment of emoluments following the delivery of the copies shall be taken to be the sum of such cumulative emoluments and total net tax deducted as are shown on the copies, subject to paragraphs (1) to (7) of regulation 25, and such emoluments and tax as have been paid or deducted by the employer since the commencement of the employment;

218. Again, this does not clearly give a figure to treat as previous cumulative tax in regulation 14 of SI 1993/744. And again this results from the introduction of K codes. Prior to that regulation 20(6)(a)(ii) of SI 1973/334 (substituted by SI 1981/44) had provided for the new employer to treat as “cumulative tax immediately before the payment of emoluments following [*the P45*]” the sum of cumulative tax from the Form P45 and tax deducted by the new employer. When K codes were introduced the link to regulation 14 and previous cumulative tax was not maintained (or not maintained clearly). This regulation and regulation 52(12) restore the link.

219. Regulation 33 of SI 1993/744 is essentially the same as regulation 34 except it is a notice from the Inland Revenue rather than a Form P45 which restores cumulative deductions. So regulations 53(4) and 61(4) (for pension payers) make the same change.

220. In each case however the regulations in question maintain the treatment of the relevant amount as total net tax deducted by the new employer. This is necessary, among other things, to fit in with paragraph (9) of this regulation in cases where the receipt of a Form P45 requires the new employer to switch from the non-cumulative basis to the cumulative basis.

221. This is a change in the law (*Change 22*) to the extent that it prevents employers and employees arguing for a different construction (although what that construction might be is far from clear) but is in line with guidance and practice.

222. *Paragraph (2)* avoids the need for the separate provision in regulation 15 of SI 1993/744 for the first payment an employer makes in any tax year. Then the previous total tax to date is bound to be nil. But this is (as provided by paragraph (10)) subject to the fact the employer may be treated as having made payments by, for example, getting a Form P45 from a new employee. Then there may be previous total tax to date to take into account on the new employer's first relevant payment.

Regulation 24: Cumulative basis: employee not paid weekly or monthly

223. This regulation treats the main, regular payments to employees who are paid every 2 or 4 weeks (or at similar intervals) as paid later for the purposes of deduction of tax. It is based mainly on regulation 18 of SI 1993/744 with a minor change. It applies only for the cumulative basis but regulation 30 makes similar provision for the non-cumulative basis.

224. This regulation gives employees more free pay, so less tax is deducted, and employees are more likely to end the year with the right tax deducted.

225. The tax tables provide deductions for tax weeks and tax months. If an employee is paid weekly or monthly the tables alone work well. But for employees paid at other intervals this additional provision is needed.

Example 1

Suppose an employee is paid every 3 months starting on 15 May.

The employer would, in the absence of any other provision, use the tables for month 2 on making the first payment and month 11 for the last payment. The employee would not get the full year's worth of the allowances, reliefs and deductions represented by the code.

This regulation requires the employer to deduct or repay tax using the tables for months 3, 6, 9 and 12. That way the employee gets the right amount of free pay (or additional pay) taken into account over the year.

Example 2

Suppose an employee is paid every 4 weeks in tax weeks 1, 5, 9 and so on.

The employer would, in the absence of any other provision, use the tables for weeks 1, 5, 9 and so on – and so the tables for week 49 for the last payment in the year.

This regulation requires the employer to deduct or repay tax using the tables for weeks 4, 8, 12 and so on up to week 52 so the employee gets by the end of the tax year a full year's worth of whatever allowances are represented by the code.

226. The change (*Change 23*) is that this regulation applies only to the *main* relevant payments an employer makes to an employee at regular intervals *longer than a week* and other than a month; and stops payments being moved into a new tax year. Regulation 18 of SI 1993/744 applies to *any regular* payments made at intervals *other*

than a week or a month. The change removes anomalies. It is also made in regulation 30.

227. Details of the anomalies removed by this change are as follows.

228. First, there would be anomalies if regulation 18 were applied to two series of payments. Employees could face a series of deductions and repayments which left them confused (and worse).

Example of application of regulation 18 of SI 1993/744 to multiple regular payments

Suppose an employer makes relevant payments of:

- wages every 4 weeks starting on 13 April 2004;
- commission every 13 weeks starting on 20 April 2004.

Then regulation 18 of SI 1993/744 appears to:

- treat the payment of wages made on 13 April as made on (5 April 2004 + 4 weeks =) 3 May 2004 for the purposes of calculating deductions. The employee gets 4 weeks' worth of allowances;
- treat the payment of commission made on 20 April as made on (5 April 2004 + 13 weeks =) 5 July 2004 for the purposes of calculating deductions. The employee gets 13 weeks' worth of allowances. That may well lead to a repayment of some or all of the tax deducted from the payment on 13 April;
- treat the next payment of wages made on 11 May as made on (5 April 2004 + 8 weeks =) 31 May 2004 for the purposes of calculating deductions. The employee gets 8 weeks' worth of allowances. That is a lot less than when the commission was paid. So the deduction (based on the cumulative emoluments) is likely to be large.

So, in broad terms, tax on the first payment on 13 April is repaid when the commission is paid on 20 April and then deducted again when the second main payment is made on 11 May.

229. The Regulations cannot be intended to create a yo-yo of deductions and repayments. Section 685(1) of ITEPA specifically requires that the PAYE tables try to secure even deductions over the tax year. Although that is separate from regulation 18 of SI 1993/744, the underlying objective of deducting tax evenly would clearly be contradicted. This regulation avoids uneven deductions.

230. Second, there would be similar anomalies with payments at regular intervals of less than a week.

Example of application of regulation 18 of SI 1993/744 to payments every 2 days

Suppose an employer makes relevant payments every 2 days starting 6 April 2004.

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

Then regulation 18 of SI 1993/744:

- treats the first payment made on 6 April as made on (5 April 2004 + 2 days =) 7 April 2004 for the purposes of calculating deductions. The employee gets 1 week's worth of allowances;
- treats payments made on 8 and 10 April as made on 9 and 11 April: again 1 week's worth of allowances;
- treats the payment made on 12 April as made on 13 April in week 2 so the employee gets 2 week's worth of allowances;

and so on until the payment on 5 April. That would be treated as made on the first day of the next tax year (hence the change made in this regulation: see paragraph 232).

231. The only effect of this is to move payments a day later for the purposes of deductions. It does not affect the tax deducted overall: either way the employee gets a full year's worth of free pay. It cannot make the deductions absolutely even, because either way the employee will have some weeks with 3 payments and some with 4 payments. It just adds complexity here (and much more so when combined with the provision for aggregation for the non-cumulative basis in regulation 21 of SI 1993/744).

232. Third, as mentioned in the preceding example, regulation 18 of SI 1993/744 appears to treat some payments as made in the next tax year. That cannot be right. It would make it impossible for the PAYE system to collect the right amount of tax in the year from payments actually made in the year. So *paragraphs (3)(b) and (4)* provide instead that such payments are treated for the purposes of calculating any deduction or repayment as made on the last day of the tax year.

233. *Paragraph (6)* points readers to the way regulation 31 provides exceptions from this regulation. Regulation 18 of SI 1993/744 leaves readers to find the special treatment of payments made on 5 April (or 4 and 5 April in a leap year) in regulation 17 of SI 1993/744. But those exceptions are important and more extensive with *Change 30*. See paragraphs 276 to 280 on page 55.

Regulation 25: Cumulative basis: subsidiary PAYE income of employee paid weekly or at greater intervals

234. This regulation treats payments to employees outside their normal payment cycle as made later for the purposes of cumulative deductions, so that tax is deducted evenly. It is based mainly on regulation 19 of SI 1993/744 with minor changes. Regulation 28(2) makes corresponding provision for the non-cumulative basis.

235. Regulation 19 of SI 1993/744 achieves more even deductions if there are extra payments. It stops employees getting a repayment of tax with an extra payment only to have that tax clawed back when the next regular main payment is made. This would come about, but for regulation 19, because of the application of the cumulative basis. For example, a monthly paid employee might:

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

- get a small payment (for example, of commission) early in a tax month. The employer uses the tax tables for the new month. They give another month's worth of allowances. So the employee gets a repayment of tax; then
- get paid later in the month the normal wages or salary. The employer calculates the tax to be deducted. The previous cumulative tax is less than it would have been because of the repayment made. So more tax has to be deducted than usual.

236. Regulation 19 of SI 1993/744 stops this and gives employees a smoother flow of take-home pay by preventing repayments on early extra payments. But it leaves a number of anomalies and uncertainties.

237. *First*, regulation 19 of SI 1993/744 apparently requires an employer to comply with regulation 14 of SI 1993/744 when making the extra payment but not make any repayment which is due if the extra payment was made before the main relevant payment. But that would mean that, come the next relevant payment, the employer would start with (in terms of these Regulations) a figure of previous total tax to date which reflects the repayment which has not been made. Nothing in regulations 14 or 19 provides otherwise. The net effect is that the employee *neither* gets the repayment *nor* has the fact it has not been made taken into account later.

238. To make matters worse, the interaction of regulations 18 and 19 of SI 1993/744 means that every extra payment to an employee paid at regular intervals longer than a month appears to be treated as paid before the main relevant payment. Regulation 18 treats the main relevant payments as paid later and that appears to apply for the purposes of regulation 19(2).

239. The answer to these anomalies appears to be that regulation 19(2) of SI 1993/744 should not be read as applying to *all* extra payments. It should be read as treating *some* payments as made later – but for more than just the purpose of calculating deductions. Prior to its paragraphing on consolidation in 1993 the regulation provided:

(1) If the employer makes a payment in respect of overtime or other extra earnings to an employee whose main emoluments are paid monthly, and that payment is made at an earlier date in the income tax month than the date on which the main emoluments are paid, the employer shall repay no tax to the employee on the occasion of that payment, notwithstanding that tax may be repayable under the provisions of Regulation 15; but **in such a case** Regulation 15 shall have effect as if that payment was made on the same date in that income tax month as the date on which the main emoluments are paid.
(emphasis added)

(2) The foregoing provisions of this Regulation shall apply with the necessary modifications to payments in respect of overtime or other extra earnings which are made to an employee whose main emoluments are paid at intervals greater than a month.

240. The words emphasised might be taken to indicate that the extra payment is deemed to be paid later only if treating the payment as made at the date it is actually

made would give rise to a repayment. But – in order to avoid the anomaly with previous total tax to date – in such cases the payment is treated as made later for *all* purposes of regulation 15 (as it was then – regulation 14 in SI 1993/744).

241. This would however lead to other anomalies:

- it appears that the employer must then calculate in accordance with regulation 14 of SI 1993/744 whether any tax is due to be deducted or repaid in order to establish whether or not the extra payment is “such a case”. If it is, then the employer must erase that calculation and carry the extra payment forward to when the normal payment is made;
- on making the extra payment the employer would have to use the tax tables for the week or month the payment is actually made, not for when the normal payment is due to be made. This could lead to a deduction of tax from the extra payment which is then repaid when the normal payment is made. This is the obverse of the problem regulation 19 was devised to address but no less unwelcome as a source of uneven deductions;
- if an employer made more than one extra payment in a payment period before the main relevant payment the employer could end up, come the normal pay day, with a requirement to deduct more tax than the actual payment then made.

242. These problems are avoided in practice. The Inland Revenue’s guidance to employers (in CWG2) is that they should neither deduct nor repay tax on making, before the date of the main payment, small extra payments to employees paid monthly or at greater intervals. They are guided instead to add the extra payment to the main payment and deduct or repay tax then.

243. *Second*, there is the anomaly that regulation 19 of SI 1993/744 applies only to employees paid *monthly or at greater intervals*. This means that employees paid, for example, every 4 weeks are left at risk of repayments which are then clawed back.

244. *Third*, regulation 19 of SI 1993/744 applies if an employee’s main emoluments:

- (a) are paid monthly, or
- (b) are paid at intervals greater than a month,

245. In theory (although probably not in practice) this could lead to the regulation applying to an employee paid in months 1, 3, and 6 of each tax year. That would produce odd results. For example, if an extra payment in month 7 would give rise to a repayment it appears the employer should not make it; and that it should be treated as made in month 1 of the next tax year. The original text of regulation 19 of SI 1993/744 shows this is not the correct construction. But the omission of the words “in

the month” (and the requirement to read them as applying similarly to longer periods) leaves at best unclear the treatment of such payments.

246. This regulation makes three changes to remove these three anomalies.

247. *First*, it applies only if main relevant payments are made at regular intervals. This change (*Change 24*) is expected to have no effect in practice.

248. *Second*, it applies to employees normally paid *weekly or at greater intervals*. This change (*Change 25*) is in line with both the policy behind regulation 19 of SI 1993/744 and the changes made in other regulations to cater for employees paid, for example, every 2 or 4 weeks. It has no effect for employers who do not make payments outside their normal payroll cycle.

249. *Third, paragraphs (2) to (4)* of this regulation build on practice so as to remove the anomalies. They:

- require employers to treat *any* extra payment as made when the next main relevant payment is due, so employees get the benefit of allowances due for the new payment period;
- refer explicitly to the *actual* date a normal payment is *due to be* paid. This removes possible confusion about the effects of regulation 24; and removes what would otherwise be a bar on repayments if for some reason there was a break in the cycle of main payments;
- provide for the previous total tax to date to be adjusted for any repayment not made because of this regulation. This avoids the need for employers to calculate the tax due in accordance with regulation 23, find a repayment is due, and then have to erase what they have done (and possibly entered in the deductions working sheet) and start again come the main relevant payment. It also caters for the possibility that there is more than one extra payment before the main relevant payment.

250. This is a change in the law and practice (*Change 26*) to the extent that it requires employers to calculate the tax on extra payments when they make them (but still as if they were made at the date of the normal payment) and then use that calculation as the starting point for the next relevant payment, instead of making the calculation using the actual date and then erasing what they have done.

251. *Paragraphs (5) to (9)* are a consequence of the way:

- this regulation applies to employees normally paid at regular intervals shorter than a month; and

- regulation 31 extends the special treatment in regulation 17 of SI 1993/744 for payments made on 5 April (or 4 and 5 April in a leap year) to more than just employees paid weekly.

252. One aspect of regulation 31 is especially relevant here. Regulation 17 of SI 1993/744 applies to any payment on 5 April (or 4 April in a leap year) to employees paid weekly. Regulation 31 applies also to employees paid at other intervals (for example, every two or four weeks). That means there are likely to be more payments of overtime or the like made in the short period at the end of the tax year. Requiring all those payments to be dealt with on the non-cumulative basis would lead to more work for employers. It is not necessary to do so to achieve the original purpose of regulation 17 (see paragraphs 277 and 278). That can be achieved by restricting the use of the non-cumulative basis for “extra pay days” to payments in the short period at the end of the tax year in which a main payment is made. This is a part of the change in the law (*Change 30*) discussed in paragraphs 276 to 280 on page 55.

Regulation 26: The non-cumulative basis

253. This regulation provides for deductions on what is known as “the non-cumulative basis”. It is based on part of regulation 17 of SI 1993/744.

254. As mentioned in paragraph 204, regulations 26 to 31 take a different approach from SI 1993/744. They provide a separate, self-contained set of provisions in order to make clearer what the non-cumulative basis involves.

Regulation 27: Non-cumulative basis: general rule for deductions

255. This regulation provides for deductions on the non-cumulative basis usually to be made as if the payments were made on the first day of the tax year so employers use the PAYE tables for week 1 or month 1. It is based on part of regulation 17 of SI 1993/744 with a minor change.

256. The non-cumulative basis is often referred to as the “week 1/month 1 basis” because of the requirement to deduct tax as if the payment were made at the start of the tax year. And that is the way the majority of non-cumulative codes are used (for weekly or monthly paid employees). But there are exceptions. Paragraph (2) gives signposts to them.

257. The minor change is that regulation 17 of SI 1993/744 requires the employer to deduct tax as if “the payment had been made on the preceding 6th April”. For a payment actually made on 6 April that would, taken literally, mean treating the payment as made a whole year earlier. This regulation requires instead a deduction as if the payment had been made “on the first day of the tax year”. This is a change in the law (*Change 27*) only to the extent it denies anyone the opportunity to argue deductions should be made from payments made on 6 April as if they were made a year earlier.

258. Regulation 17(3) and (4) of SI 1993/744 require an employer to keep records when making a payment. They largely duplicate the requirements in regulation 38 of SI 1993/744. This regulation removes the duplication by leaving all the record-keeping requirements to regulation 66.

Regulation 28: Non-cumulative basis: modification of general rule

259. This regulation provides exceptions to the general rule in regulation 27 by treating payments as made later for the purposes of calculating deductions. It is based on parts of regulations 14, 17 and 18 of SI 1993/744 with two minor changes.

260. *Paragraph (2)* is based on parts of regulations 17 and 18 of SI 1993/744. Regulation 17 treats a payment as made on 6 April. Regulation 18 then treats a payment at regular intervals other than a week or month as made at the end of that interval (as if a previous payment had been made on 5 April). That way an employee paid, say, every 4 weeks has the payment treated as made on 3 May and gets 4 weeks' worth of allowances. This is put more directly in paragraph (2) and regulation 30.

261. Paragraph (2) includes a minor change. Regulation 19 of SI 1993/744 appears (when read with the text before consolidation) to leave tax to be deducted from any extra payment such as overtime using the tax tables for the week or month in which the payment is actually made. This leads to anomalies which involve employees suffering excessive deductions.

Example

Suppose an employee is paid every 3 months starting in April:

- the payment in April is treated as made in June for the purposes of calculating the deduction by regulation 18 of SI 1993/744. That gives the employee 3 months' worth of allowances;
- but the employer must deduct tax from an *extra* payment made in April (whether before or after the main payment) using the tax tables for month 1. That may lead to excessive deductions.

262. The anomalies are made worse by regulation 21 of SI 1993/744 which requires aggregation of all payments in a week or month. If that applies by reference to when the main relevant payment is actually made the employee may have too much tax deducted (on the basis of the aggregate payments but only one month's allowances). If it applies on the basis of the deemed payment date the employee may have too little tax deducted (because the allowances for month 1 are in effect given twice – once for the main relevant payment and again for the extra payment).

263. *Paragraph (2)* of this regulation removes part of this anomaly by treating all relevant payments to an employee with regular payments (other than weekly or monthly payments) as paid at the same date. Regulation 29 removes the remaining part by providing for relevant payments to be aggregated over the payment period –

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for example, all the payments in a tax quarter for an employee paid every 3 months. This is a change in the law (*Change 28*) and possibly in practice for some employers.

264. *Paragraph (3)* is new but reflects long-standing practice. It gives employees paid at irregular intervals whatever slice of their annual allowances (as reflected in the code) is unused since their previous relevant payment (or since the start of the tax year if it is the first relevant payment).

Example

An employer makes the first relevant payment to an employee in tax year 2004-05 on 22 June 2004. The employer deducts tax using the PAYE tables for week 12.

(That gives the employee 12 weeks' worth of allowances. If the payment were treated as made on 6 April the employee would get only a week's worth of allowances.)

The employer makes the second relevant payment on 19 October 2004. The employer counts the number of days from 22 June (when the previous payment was made) to 19 October. That is 119 days. Counting 119 days from 5 April gives 2 August 2004. That is in tax week 17. So the employer deducts using the PAYE tables for week 17.

(19 October 2004 is in week 29. But deducting tax using the week 29 PAYE tables would give the employee the first 12 weeks' worth of allowances over again. This way the employee gets the 17 weeks' worth of allowances not already used.)

265. *Paragraph (4)* modifies this rule, as part of the same change, for payments actually made in the same tax week. Without this additional rule paragraph (3) of this regulation could treat:

- the first payment made in the tax week as made later – for example, in week 10; and
- the second payment made in the tax week as made in week 1 (because it is less than a week after the previous payment).

266. This would lead to odd results. For example, a small payment might use up 10 weeks' worth of allowances. Then a larger payment later in the same tax week would get only a week's worth of allowances. The results would be even odder given regulation 21 of SI 1993/744 (and regulation 29 of these Regulations) requires aggregation of payments made in the same week. With paragraph (4) both payments are treated as made in the same week for the purposes of calculating deductions.

267. Paragraphs (3) and (4) are a change in the law (*Change 29*) to bring it into line with practice.

268. *Paragraph (5)* is based on regulation 14(2)(b) of SI 1993/744. It is included in this regulation as a consequence of separating the cumulative and non-cumulative bases in these Regulations.

Regulation 29: Non-cumulative basis: aggregation of payments

269. This regulation requires employers to aggregate payments made in the same income tax week or longer payment period when working out deductions on the non-cumulative basis. It is based on parts of regulations 14 and 21 of SI 1993/744 with a minor change.

270. Regulation 21 of SI 1993/744 provides that payments made in the same week or month should be aggregated if tax is not deducted on the cumulative basis. This is so that an employee who receives an additional payment (for example, a bonus or commission) on a separate date from the normal payment does not get an additional amount of free pay (or with a K code have more additional pay added). That would risk ending up with too little or too much tax deducted.

271. This regulation maintains this but extends the same treatment to employees paid other than weekly or monthly. For example, an employee paid every 4 weeks will have all payments in a 4-week payment period aggregated. This is part of the change (*Change 28*) which also treats all payments to an employee normally paid at such intervals as paid at the same date for the purposes of calculating deductions: see paragraph 263. It is a change here only to the extent that it removes the scope for an employer or employee to argue that relevant payments should not be aggregated in this way. It is thought unlikely that that argument would succeed if at the same time it were argued that deductions should be made on the basis of free pay for a period other than a week or month. The same change is made in regulation 34 but it has no practical effect at all there as the simplified deduction scheme is only used for weekly or monthly paid employees.

272. *Paragraph (3)* provides explicitly that any effect of regulation 30(2) is ignored when arriving at the aggregate of payments. This is implicit in SI 1993/744. The deeming of different dates in regulations 18 and 19 of SI 1993/744 cannot be intended to extend to regulation 21 to require employers to aggregate payments which have yet to be made. That would require employers to foretell future payments and deduct tax from them before they were made.

273. *Paragraphs (2)(b) and (c) and (5)(b) and (c)* are based on regulation 14(2) of SI 1993/744. They are a consequence of these Regulations providing self-contained provisions for the non-cumulative basis.

Regulation 30: Non-cumulative basis: employee not paid weekly or monthly

274. This regulation treats payments to employees paid at regular intervals longer than a week, other than a month, as made at a date which gives the employee a proper share of the annual allowances represented by the code. It is based on regulation 18 of SI 1993/744 with a minor change.

275. This regulation is similar to regulation 24 (Cumulative basis: employee not paid weekly or monthly). It includes the change made in that regulation (*Change 23*) to apply it only to an employee's main relevant payments and to deal with payment

periods of less than a week or more than a year (see paragraphs 226 to 232). But as this regulation applies only for the non-cumulative basis there is no need for a special rule for short payment periods.

Regulation 31: Payments in short payment periods

276. This regulation makes special provision for employees with cumulative codes who would otherwise face exceptional deductions of tax when paid near the end of the tax year. It is based on regulation 17(1) of SI 1993/744 with a minor change.

277. Regulation 17(1)(a) of SI 1993/744 makes special provision for payments to weekly paid employees made on 5 April, or on 4 or 5 April in a leap year. This is because every few years employers will make 53 weekly payments to them. The tax tables give an employee $\frac{1}{52}$ of the allowances, reliefs and so on represented by the code. Then, over the course of a normal year, the correct amount of tax will usually be deducted. But this would mean that in a year with 53 weekly payments the final payment to an employee with a cumulative code would bring no more free pay. More tax than usual would be deducted leaving the employee with less take-home pay to live on.

278. Regulation 17(1) of SI 1993/744 prevents this happening. It requires employers to use the non-cumulative basis for “week 53” payments. This means the PAYE tables give the employee an extra $\frac{1}{52}$ of the annual allowances for that week.

279. This regulation:

- extends this treatment of weekly paid employees to employees paid at other intervals;
- incorporates the practice of making an exception to this rule for “week 53” payments if the employee’s code is cumulative and the total payments to date, including the week 53 payment, are less than the total free pay to date. In such circumstances no deduction would be made at all if the code were used on the cumulative basis so employers are told to make none. Paragraph (3) of this regulation provides for this; but
- excludes employees with the basic rate code. This is on the basis that an employee with the basic rate code used on the cumulative basis would, like those with the higher rate code, not suffer exceptionally high deductions from relevant payments made in a short payment period. The deductions would as usual be at the basic rate. So applying the regulation to payments to them would create unnecessary work for employers to no purpose.

280. This is a change in the law (*Change 30*) to the extent that it denies employers and employees the ability to argue that the cumulative basis should continue to apply even for extra pay days or that tax should be deducted when the employee has not used up all their free pay. It brings the legislation into line with practice.

Regulation 32: Higher rate code: deductions

Regulation 33: Nil tax code: no deductions or repayments

281. These regulations deal with two of the flat rate codes. They are based on regulation 16 of SI 1993/744.

282. Splitting the material into two regulations makes it easier for readers to find the provisions for the higher rate and nil tax codes respectively. It also avoids doubts about the basic rate code. These Regulations, like SI 1993/744, provide for deductions at the basic rate on both the cumulative and the non-cumulative bases.

283. Both regulations make a minor change. They refer simply to the “employee’s code”. That is defined in regulation 8 to cover codes determined by the Inland Revenue or by the appeal Commissioners. Regulation 16(1) of SI 1993/744 refers only to determinations by an inspector and so might be read as not applying to codes determined by the Commissioners. This is a change in the law (*Change 31*) only to the extent that it prevents someone arguing that a higher rate or nil tax code determined by the appeal Commissioners must be applied on the cumulative basis. It brings the law into line with practice.

284. The requirements in regulation 16(2) and (3) of SI 1993/744 to keep records are omitted from these regulations as unnecessary. A determination under regulation 9 of SI 1993/744 is treated as the determination of a code which would appear to require records to be kept in accordance with regulation 38 of SI 1993/744 in any event. If not, their effect is achieved in these Regulations by the fact that the “flat rate codes” are codes. So regulation 66 applies to require records where appropriate.

Regulation 34: Simplified deduction scheme for personal employees

285. This regulation provides a simpler PAYE system for employers of certain personal and domestic employees. It is based on regulations 20 and 21 of SI 1993/744 with minor changes.

286. First, regulation 20 of SI 1993/744 provides for simplified PAYE for employees “in receipt of a fixed salary or wage”. This regulation makes the simplified scheme available only for “personal employees” as defined in *paragraph (3)* but extends it to employees who are not paid fixed wages. This is a change in the law (*Change 32*) to bring it into line with practice.

287. Second, regulation 20 of SI 1993/744 differs from regulation 17 of SI 1993/744 in appearing to provide for deductions to be made *both* without regard to cumulative emoluments *and* without working through regulation 14. This means that there is no provision to deduct, on making a second or subsequent payment in a week or month, only the net additional tax due. See the example in paragraph 202.

288. Employers using the simplified scheme were very unlikely to make more than one payment a week or month when the scheme was used only for employees on fixed wages. But they might have done – for example, if they paid an employee day by day.

As this regulation caters for variable payments multiple payments are more likely. So *paragraph (2)(b)* provides, like regulation 29(2)(c), that only the net additional tax must be deducted. This is a change in the law (*Change 33*) only to the extent it prevents employers and employees arguing that the tax which must be deducted on the basis of aggregate payments in a payment period should have no regard to tax deducted from earlier payments.

289. Third, regulation 20(4) of SI 1993/744 disapplies a number of regulations when the simplified scheme is used. *Paragraph (4)* of this regulation also disapplies regulation 66(1) to (4). They have no practical application with the simplified scheme. (Regulation 38(4) is not relevant because K codes cannot in practice be used with the simplified tables.)

290. Regulation 20(4) of SI 1993/744 disapplies the whole of regulation 25 (the provisions which require employers to use Forms P45 to get codes and, where appropriate, maintain cumulative deductions). That makes sense as the simplified scheme does not work that way. It then appears that regulation 25(1) does not apply to require new employees to give Forms P45 to new employers who use the simplified scheme. But it is not clear-cut. A new employee may start work before the employer has received the Inland Revenue's agreement to the use of a simplified scheme. In any event, it would be bad service to leave employees with out-of-date Forms P45; and is better service if the Inland Revenue get them (to ensure they can identify the employee). So in practice employers using the simplified scheme are asked to send any Forms P45 they are given by new employees to the Inland Revenue. *Paragraph (4)* recognises that by leaving regulation 40 to apply. This is a change in the law (*Change 34*) to correct oversights in the Regulations and to bring the law into line with practice.

291. In addition, regulation 21 of SI 1993/744 requires employers who are not deducting tax on the cumulative basis to calculate deductions on the basis of the aggregate of all payments in a week or month. This ensures the allowances reflected in a PAYE code are given only once. *Paragraph (2)(a)* maintains this position. It does so by telling the employer to aggregate over the period shown on the deductions working sheets. Each deductions working sheet for the simplified scheme indicates clearly if free pay is for a week or month. There is therefore no change in practice, although in principle it incorporates the change (*Change 28*) made in regulations 28 and 29.

Regulation 35: Simplified deduction schemes: records

292. This regulation requires employers using the simplified deduction scheme to maintain records and make returns. It is based on regulations 20 and 43 of SI 1993/744 and regulation 13 of SI 1994/1212 with two minor changes.

293. First, *paragraph (2)(e)* requires employers to record any tax "to be deducted or accounted for" as well as tax actually deducted or accounted for. This is part of a change (*Change 35*) made in these Regulations to deal more consistently with

notional payments. Paragraphs 388 to 396 on page 73 give the background to notional payments and details of the change.

294. Second, *paragraphs (5) to (7)* of this regulation make special provision for returns at the end of the year in place of the general provisions in regulation 73. This reflects the fact that in practice employers using the simplified scheme send the Inland Revenue the deductions working sheets with a declaration tailored to their particular circumstances. This is a change in the law (*Change 36*) to bring it into line with practice.

Regulation 36: Cessation of employment: Form P45

295. This regulation requires employers to provide employees and the Inland Revenue with information when an employee ceases to be employed. It is based on regulation 23 of SI 1993/744 with three minor changes in the law.

296. The Form P45 is a well known feature of the PAYE system. SI 1993/944 refers to it as the “statement issued in accordance with regulation 23” or the “statement mentioned in regulation 23”. These Regulations refer explicitly to “Form P45”. “Form P45” is defined in regulation 215.

297. This regulation also refers explicitly to the various parts of the P45.

Parts of Form P45

- 1 goes straight to the Inland Revenue;
- 1A (introduced for Self Assessment) is for the employee’s records;
- 2 is for the employee to give to a new employer; and
- 3 is for the employee to give to a new employer, who then adds information to it and sends it to the Inland Revenue.

298. SI 1993/744 refers to Parts 1A, 2 and 3 as “copies” of the form. This is understandable since the Form P45 was, and for some employers still is, a paper form with three carbon copies. But even they do not produce *copies* of Part 1. Some information appears only on Part 1 or only on Parts 1 and 1A.

299. Naming the Parts also enables these Regulations to make clear which Parts are referred to where. The same approach is followed in other regulations dealing with Form P45. This is a change in the law (*Change 37*) only to the extent it prevents an employee arguing that an employer should have provided an actual copy of the Form P45 Part 1 sent to the Inland Revenue. It brings the law more clearly into line with practice.

300. The Form P45 requests more information than specified in regulation 23 of SI 1993/744. An example is the employee’s address. On the other hand, regulation 23 requires, on all parts of the Form P45, information that in practice is shown only on Part 1. An example is the additional identifying number for an employee required under regulation 23(2)(c) of SI 1993/744. Also, regulation 23 does not provide clearly

for the different ways in which the form should be completed depending on whether or not the code was being used on the cumulative basis.

301. This regulation revises the information requirements so that the legislation follows what is required in practice. It also replaces what in SI 1993/744 is an absolute requirement to provide the employee's national insurance number with a requirement to give it *if known*. This recognises that employees may not have a national insurance number or the employer may not know it at that time.

302. Later regulations similarly require the information required in practice in other forms. Some of these involve precisely the same sort of changes as made in this regulation. Others are changes in the law only to the extent they replace a general requirement to provide such information as the Inland Revenue may require with specific requirements.

303. The other regulations in question are:

- 42 Procedure if employer receives Form P45;
- 46 Form P46 where employer does not receive Form P45 and code not known;
- 52 Late presentation of Form P45;
- 55 PAYE pension income paid by former employer;
- 57 Information to be provided in Form P46 if code not known: non UK residents;
- 58 Information (Form P46) and procedure if code not known: UK residents;
- 66 Deductions working sheets;
- 67 Information to employees about payments and tax deducted (Form P60);
- 73 Annual return of relevant payments liable to deduction of tax (Forms P35 and P14);
- 120 Particulars that local council must record;
- 129 Certificate of tax deducted;
- 131 Particulars that Ministry must record;
- 132 End of year certificate;
- 137 Certificate of tax deducted;
- 139 Particulars that fund must record;
- 154 No Form P45: deductions working sheet and return;
- 157 Obligations at end of tax year;

- 159 Cessation of award: Form P45U;
212 Modifications for electronic version of Form P160.

304. This is a change in the law (*Change 38*) to the extent that it prevents an employer arguing that the information cannot be required in, for example, a Form P45. But it is not thought to involve any change in practice.

305. The final change in this regulation concerns when employers must complete and issue Form P45. Regulation 23(1) of SI 1993/744 requires the employer to fill in the Form P45, and send Part 1 to the Inland Revenue, “forthwith” when the employment ceases. Regulation 23(3) of SI 1993/744 requires the copies to be given to the employee “on the day on which the employment ceases”. This regulation provides that the employer must do this unless it is not practicable. This reflects the fact that some employers’ payroll systems do not allow them to comply with the current requirements, and that the Inland Revenue accept this so long as there is no unreasonable delay (which could lead, for example, to employees suffering delays in getting repayments). It is a change in the law (*Change 39*) to bring it into line with practice. It is made also in regulations 38 and 39 for Forms P45 on the death of employees and pensioners; in regulation 180 for Forms P45 the death of IB claimants; and in regulation 145 for the equivalent return from employees who use the system of direct collection.

306. Regulation 23(4) of SI 1993/744 provides that the former employer should send Parts 1A to 3 of the Form P45 direct to a benefits office if the former employer:

- failed to provide these to the employee on the last day of the employment, and
- is so required under regulation 84(8) of SI 1993/744.

307. This provision is unnecessary as regulation 84(8) of SI 1993/744 allows the department to call for a Form P45 (see regulation 151(2)). It is omitted from this regulation.

Regulation 37: PAYE income paid after employment ceased

308. This regulation requires tax to be deducted at the basic rate from payments made to a former employee after the employment has ceased. It is based on regulation 24 of SI 1993/744 with three minor changes.

309. First, *paragraph (6)* incorporates the effects of regulation 13 of SI 1994/1212 and *Change 35*. See paragraphs 391 to 396 on page 73.

310. Second, *paragraph (7)* requires the payer to give the payee details of payments made and tax deducted. There is no such provision in SI 1993/744. But the Inland Revenue guidance for employers suggests that the payer should provide the information and so far as is known most payers do so. This change (*Change 40*)

brings the law it into line with best practice. The introduction of Self Assessment and tax credits has made it more important for employees to have a record of payments and tax deducted. But it is left open for payers to decide the manner in which they provide the information.

311. Third, *paragraph (3)(a)* (as part of *Change 7*) makes clear that the further payment does not mean that the employment has not ceased. It would appear patently impossible to argue that the payments mean the employment continues with regulation 24 of SI 1993/744 as that can only apply if the employment has ceased. But the way Part 1 provides explicitly for “other payers” and “other payees” would admit the argument but for *paragraph (3)(a)*.

312. *Paragraph (1)* of this regulation omits as unnecessary the examples in regulation 24(1)(b) of SI 1993/744 of persons who may make payments in respect of an obligation of a former employer:

a trustee in bankruptcy, a receiver, a liquidator or any other person making such a payment in respect of an obligation of a former employer

313. Regulation 24(2) of SI 1993/744 provides that regulation 14 does not apply, so tax is not deducted on the cumulative basis. *Paragraphs (3) and (4)* of this regulation make clear that other regulations also do not apply. For example, a trustee in bankruptcy is not required to go through the Form P46 procedures when making payments of the kind dealt with by this regulation.

Regulation 38: Death of employee

Regulation 39: Death of pensioner

314. These regulations require a P45 to be issued on the death of an employee, and provide for PAYE to be operated on payments made after death. They are based on regulation 27 of SI 1993/744 with three minor changes.

315. First, regulations 23 and 27 of SI 1993/744 require “on the death of an employee” the employer to complete “forthwith” Form P45. That makes no allowance for the possibility an employer (and even more perhaps a pension payer) may not learn of the death immediately. So as part of the change (*Change 39*) made in regulation 36 these regulations require the employer or pension payer to issue Form P45 when they learn about the death or, if that is not practicable, without unreasonable delay.

316. Second, both the regulations omit the requirements in regulation 27(1) of SI 1993/744 that the employer must:

- show in the Form P45 the name and address of the personal representative if known; and

- include in the Form P45 any payments the employer will make after death, and the tax which will be deducted or repaid, if the employer knows how much will be paid and when; or indicate in the P45 that there will be such a payment if the employer does not know the amount and date.

317. Instead these two regulations only require that the employer or pension payer indicate in the Form P45 that it is issued because of the death of the payee. They also recognise that (as a consequence of *Change 39*) some payments made after the death will be included in Form P45.

318. Omitting the requirement for employers to provide information about personal representatives and about future payments is a change in the law (*Change 41*), and for some employers also a change in practice. But it allows the law and practice to be brought into line with one another without requiring employers and pension payers to take on extra tasks. It does not affect the ability of personal representatives to get from the Inland Revenue information to deal with the deceased employee's or pensioner's tax affairs.

319. Third, these regulations make different provision for payments of pensions. Regulation 27 of SI 1993/744 makes no distinction. It applies equally to PAYE pension income as to other income. But since 1989 earnings from employment have been taxed on a different basis (the "receipts basis") from pensions. This means payments after death of pension income are usually taxed differently from payments of earnings made after death. This difference is reflected in these two regulations:

- *regulation 38* requires deduction at the basic rate from payments after death and after the issue of Form P45, other than pension payments. This reflects the way that personal representatives are liable for tax on such payments;
- *regulation 39* requires a pension payer to deduct tax from payments in the year of death or before they issue Form P45 as if the pensioner were still alive. This is what regulation 27 of SI 1993/744 requires (subject to the change to recognise the Form P45 may not be completed on the date of death). It gives the best chance that the right tax will be deducted given that payments of pension that accrued before the date of death are the pensioner's income and will be taxed accordingly. It differs from regulation 27 of SI 1993/744 only in requiring pension payers to deduct tax at the basic rate from payments made after Form P45 is completed *and* in a new tax year after the death. If PAYE were applied to such payments as if the pensioner were still alive, then the PAYE code and tables would give another year's personal allowances. That could well lead to underpayments of tax for personal representatives to sort out.

320. This is a change in law (*Change 42*) and in practice. But it gives employers the same, simple rule for payments following the death or departure of an employee (see regulation 37). It requires pension payers to deduct tax at the basic rate from payments

made in tax years after the year of death. But that may lead to some simplification for them. For example, they do not need to carry forward and revise PAYE codes as if the pensioner were still alive. It also offers better results for personal representatives.

321. The same approach is taken for incapacity benefit as for pensions: see the commentary on regulation 180 on page 138.

Regulation 40: Duty of employee to give new employer Form P45

322. This regulation requires employees who have parts 2 and 3 of Form P45 to give them to a new employer. It is based on regulation 25(1) and (11) of SI 1993/744 with two minor changes.

323. *Paragraph (2)* requires employees who receive a Form P45 after starting a new job to give Parts 2 and 3 to the new employer straight away. This is possibly implicit in SI 1993/744. Regulation 34 tells employers what to do if a P45 is handed in after the employment starts. But the requirement in regulation 25(1) assumes the employee will always be able to do so *at the start*:

Immediately on commencing his next employment, the employee shall deliver two copies of the statement mentioned in regulation 23(3) to his new employer

324. *Paragraph (4)* similarly includes the words “or as soon as the employee receives the Form P45 (as the case may be)” to recognise that an employee who wants the Inland Revenue to deal with Form P45 must provide the Form as soon as it is received.

325. This is a change in the law (*Change 43*) only to the extent that it prevents employees from arguing that they are under no obligation to give new employers or the Inland Revenue Forms P45 they receive after starting a new job. It is in line with practice.

326. *Paragraph (5)* makes a further minor change. Regulation 25(11) of SI 1993/744 provides that the Inland Revenue *may* issue a code. That might imply discretion to leave the employee with whatever code is determined by the regulations for the new employer to use. Paragraph (5) of this regulation provides that the Inland Revenue *must* issue a code. This will be either the code on the P45 they receive or a code that the information available to the Inland Revenue indicates is a better code. This change (*Change 44*) brings the law into line with practice.

Chapter 2: New employees (other than pensioners): Forms P45 and P46

Overview

327. This Chapter deals with the procedures at the start of an employment other than a pension by which an employer gets a code to use for a new employee and in some cases figures to maintain cumulative deductions. The somewhat different procedures for pensions are in Chapter 3 of this Part.

328. *Regulations 42 to 45* deal with employees who give Form P45 to their new employer at the start of the employment.

329. *Regulations 46 to 50* deal with employees who do not by providing for employers to send information to the Inland Revenue in Form P46 and deduct tax using a code determined by the regulations.

330. *Regulations 51 and 52* deal with Forms P45 given to new employers after the start of the employment.

331. *Regulation 53* provides for the Inland Revenue to issue a code and restore cumulative deductions in response to a Form P46.

Regulation 41: Scope of Chapter 2

332. This regulation excludes pensions from the provisions in this Chapter so the rather different provisions for them can be dealt with in Chapter 3.

Regulations 42 to 45: Procedure if employer receives Form P45 etc

333. These four regulations require employers to use Forms P45 from new employees to prepare deductions working sheets, arrive at the employees' codes, and tell the Inland Revenue they have taken on the employees. They are based on regulation 25(2) to (10) of SI 1993/744 with five minor changes.

334. First, they deal with Forms P45 according to when the old employment ceased rather than when the last payment was made. This caters for exceptional circumstances in which the Form P45 does not indicate the year of the last relevant payment. For example, the employment could cease in a year in which no relevant payments were made. So also does regulation 51 (late presentation of Form P45). This is a change in the law (*Change 45*) to the extent that it prevents an employer or employee arguing for a different procedure at the start of an employment. It brings the law into line with practice.

335. Second, these regulations cater for an employer getting Forms P45 from an earlier year than the previous year. Employers rarely see them in practice. But if they do regulation 25 of SI 1993/744, read literally, would require them to use the code and, more bizarrely, the pay and tax figures from the Form P45. Instead these regulations (and regulation 51) provide that the employer should proceed in the same way as with a Form P45 from the previous year received after 24 May. This is a change in the law (*Change 46*) only to the extent that it prevents employers or employees arguing that PAYE ought to be operated using very old codes and figures. It brings the law into line with practice.

336. Third, regulation 25(9) of SI 1993/744 treats the receipt by a new employer of Parts 2 and 3 of a Form P45 as the issue of a code to the employer only for the purposes of that regulation. That might be taken to mean that provisions in other regulations that depend on the issue of a code do not apply. Regulations 43(12)

and 44(2) remove any doubt by simply treating the code as issued. So similarly do regulations 51(5)(a) and (6)(a), 56(4) and 60(4). This is a change in the law (*Change 47*) only to the extent that it prevents employers and employees arguing that other provisions (for example, the requirement to issue Form P45) do not apply if a code is taken from a Form P45. It brings the law into line with practice. The same change is made for the codes applied by regulations 50 and 59 as part of the Form P46 procedure.

337. Fourth, regulation 43(9) removes any doubt about the treatment of payments a new employer takes from a Form P45. Regulation 25(5) of SI 1993/744 requires the new employer to deduct or repay tax as if the new employer had made those payments. The full extent of this deeming is not clear. It might appear not to reach to regulation 23(2) of SI 1993/744 to require an employer to include the payments in Form P45 at the end of that employment. But the requirements in regulation 23(2) make no sense unless employers do include such amounts. Similarly it is clear if the employer is deemed to have made the payments for the purposes of a retirement statement under regulation 26(2) of SI 1993/744. Regulation 43(9) makes clear that figures from Forms P45 do count for those purposes. This is a change in the law (*Change 48*) to the extent that it prevents employers or employees arguing that amounts which are treated as payments for the purposes of deducting or repaying tax on the cumulative basis should be ignored for these related purposes. It has no effect on practice. Regulations 52(11), 53(3) and 61(3) make the same change for figures taken from Forms P45 presented late and figures notified by the Inland Revenue.

338. Fifth, as discussed in paragraphs 213 to 216, regulation 25(3) to (5) of SI 1993/744 do not achieve properly the bridge from old to new employment the Form P45 is intended to achieve (and did achieve before the amendments for K codes). Regulation 43(10) restores the position by providing that the tax figure found from Form P45 is treated as the “previous total tax to date” to restart cumulative deductions. Regulation 52(12) makes similar provision for Forms P45 delivered late. This is part of *Change 22* – see paragraph 221 on page 44.

339. Finally, regulation 25(7) of SI 1993/744 applies if Form P45 shows the new employee’s code was used on the non-cumulative basis. It requires the new employer to deduct tax on the non-cumulative basis and to disregard references in regulation 25(3) to (5) to various figures that then do not matter. An apparent oversight in SI 1992/3180 means it does not cover all the things mentioned in regulation 25(3) to (5). This has no effect in law or practice. But regulations 42 and 43 avoid any confusion by making explicit provisions for cumulative and non-cumulative codes and for the higher rate code.

Regulation 46: Form P46 where employer does not receive Form P45 and code not known

340. This regulation requires employers to give the Inland Revenue information in Form P46 if new employees do not give them Forms P45. It is based on regulation 28(1) to (4)(a) of SI 1993/744 with five minor changes in the law.

341. First, this regulation allows employees and employers to complete Form P46 before the employer is required to send it to the Inland Revenue. Regulation 28 of SI 1993/744 requires employers to complete Form P46 and send it to the Inland Revenue when they first pay at more than a minimum rate. This is a change in the law (*Change 49*) to bring the legislation into line with practice.

342. Second, this regulation (with regulation 49) simplifies the conditions for a Form P46. Regulation 28(1)(b) of SI 1993/744

- requires a Form P46 for certain new employees if they are paid more than £1 a week or £4 a month. These thresholds are generally ignored in practice and in the Inland Revenue's guidance. This regulation omits them;
- assumes the employer knows if a new employee has other employment. That assumption is dropped in this regulation (but the later regulations continue to rely on what the employee tells the employer in Form P46);
- provides for the emergency code only if the first payment in the year exceeds the minimum rate and so comes within regulation 29 or 30. This distinction could lead to some employees having tax deducted at the basic rate under regulation 31 of SI 1993/744 when the intention was that the P46 procedures would give them the emergency code. This regulation omits the distinction.

343. This is a change in the law (*Change 50*) which brings it into line with practice. It is also made in respect of new pensioners in regulation 58.

344. Third, *paragraphs (3) and (5)* of this regulation reflect what is in practice required in the Form P46. This is part of *Change 38*: see paragraphs 300 to 304.

345. Fourth, *paragraph (6)* of this regulation caters for the case in which an employee leaves an employment and later returns to the same employer. The employer might then think that this regulation does not apply, because the employer has already had a code issued in respect of that employee. The employer might then by-pass the Form P46 procedures, resurrect the employee's old deductions working sheet, and continue using it and the code used before. That would very probably give the wrong result in terms of tax deducted. It would tend to leave employees with an underpayment of tax at the end of the year. The employee may have had an employment with a different employer in the intervening period or have received jobseeker's allowance. Paragraph (6) removes this risk. It is a change in the law (*Change 51*) only to the extent that it prevents employers and employees arguing that "old" codes and deductions working sheets should be resurrected. The change is also made in respect of new pensioners in regulations 57 and 58.

Regulation 47: Procedure in Form P46 cases: former full-time students

346. This regulation requires employers to use the emergency code on the cumulative basis for employees starting work after full-time education. It is based mainly on regulation 29 of SI 1993/744 with a minor change in the law.

347. Regulation 29(2) of SI 1993/744 provides that when a first payment is made to a former student, the employer should “enter cumulative emoluments and cumulative tax before the first payment as nil” on the deductions working sheet. *Paragraph (2)(b)* of this regulation makes clear that what the employer should do is enter, in terms of SI 1993/744, the total of the previous payments of emoluments from which no tax was deducted. But it omits as unnecessary (and potentially misleading) the requirement to enter as nil the previous cumulative tax. This is a change in the law (*Change 52*) in as much as it prevents the argument that both figures should be entered as nil. It is in part a consequence of *Change 50* in regulation 46. It brings the law into line with practice. It is also made in regulation 48(2).

348. This regulation omits the requirement in regulation 29(3) of SI 1993/744 for the new employer to keep the records required by regulation 38(3) and (4) of SI 1993/744. That is unnecessary given the way these Regulations deem a code to have been issued for new employees (see paragraph 354).

Regulation 48: Procedure in Form P46 cases: employee taking up only or main employment

349. This regulation requires employers to use the emergency code on the non-cumulative basis for other new employees taking up their only or main employment. It is based mainly on regulation 30 of SI 1993/744 with the minor change (*Change 52*) mentioned in paragraph 347.

350. Regulation 30(4) of SI 1993/744 applies if the new employee leaves the employment before a code has been issued by the Inland Revenue or Form P45 received from the employee. It provides that Parts 1A, 2 and 3 of Form P45 prepared by the employer must not show cumulative pay and tax and that the next employer must use the non-cumulative basis. It appears that in 1944 it was envisaged that Forms P45 would only need to deal with non-cumulative deductions for new employees who left before a code had been issued. But regulations 23 and 25 of SI 1993/744 now deal fully with employees with tax deducted on the non-cumulative basis. As a result this part of regulation 30 is no longer necessary and is omitted from these Regulations.

351. This regulation (like regulations 47 and 49) omits as unnecessary the requirement in regulation 30(3) of SI 1993/744 to keep records.

Regulation 49: Procedure in Form P46 cases: other new employees

352. This regulation requires employers to deduct tax at the basic rate from payments to new employees within regulation 46 who are not covered by regulations 47 or 48 – for example, employees with other employments. It is based

mainly on regulation 31 of SI 1993/744. It takes the same approach as regulations 47 and 48.

Regulation 50: Form P46 cases: code treated as issued by Inland Revenue

353. This regulation treats a code used in accordance with regulations 47 to 49 as issued by the Inland Revenue. It is based on regulation 32 of SI 1993/744 with a minor change.

354. Regulation 32 of SI 1993/744 deems a code to have been issued for the purposes of only some regulations. As with regulation 25 and codes taken from Forms P45, this creates anomalies. For example, the code is not deemed to have been issued for the purposes of regulation 39 of SI 1993/744 (certificate of tax deducted). So an employer appears not to have a code to put in the Form P60 for the employee at the end of the year. This regulation avoids this problem by extending the scope of the deeming to all of Parts 2 to 4 (except for the stated regulations where it would create circularity). This is part of *Change 47* (see paragraph 336 on page 64). It brings the law into line with practice. It is also made in regulation 59 for the emergency code used for new pensioners.

Regulation 51: Late presentation of Form P45

355. This regulation (with regulation 52) deals with Forms P45 new employers get after completing Forms P46. It is based on part of regulation 34 of SI 1993/744 with minor changes.

356. Regulation 34(2) and (3) of SI 1993/744 require the new employer to follow the procedures in parts of regulation 25 of SI 1993/744 with modifications. This regulation and regulation 52 instead spell out what the new employer should do. Accordingly this regulation includes the minor changes (see especially *Changes 45, 46 and 47,*) also made in regulations 42 and 43.

357. There are then three additional minor changes.

358. First, regulation 34 of SI 1993/744 was intended to deal with Forms P45 given to the new employer after the employer has sent Form P46 to the Inland Revenue. But the wording of regulation 34 refers only to an employer having acted in accordance with regulations 29, 30 or 31 of SI 1993/744. Acting in accordance with those regulations includes, in some circumstances, doing nothing. *Paragraph (2)* of this regulation provides explicitly that an employer simply acts on the Form P45 if it is received before the employer had to send Form P46. This change (*Change 53*) brings the law into line with the way employers deal in practice with Forms P45. It is in step with the change (*Change 49*) to make clear when Forms P46 can be prepared and must be sent to the Inland Revenue: see paragraph 341 on page 66.

359. Second, *paragraph (4)* of this regulation is new. It tells the employer to destroy a Form P45 received after the Inland Revenue have issued the employee's code to the employer. This is a change in the law (*Change 54*) only to the extent that it

removes the scope to argue that employers should do something else (for example, use the code on the Form P45). It brings the law into line with practice.

360. Third, regulation 34(4) of SI 1993/744 is omitted from this regulation. It provides for Forms P45 that related to the 1992-93 tax year. A special rule was needed for them because some codes used in 1992-93 ceased to apply from 6 April 1993. In theory an employee *might* still turn up with a Form P45 from 1992-93. But the rule is for all practical purposes spent. Its omission is a change in the law (*Change 55*) but will have no effect in practice.

361. *Paragraphs (5) and (6)* of this regulation make explicit what is implicit in regulation 34(2) and (3) of SI 1993/744. That treats the code on the Form P45 as issued “on that day”. That must be the day the Form P45 is handed in. Otherwise the Form P45 would make the employer’s previous deductions and repayments unlawful.

Regulation 52: Late presentation of Form P45: employer’s duties

362. This regulation give the details of what an employer must do if a Form P45 is received late. It is based on regulation 25 of SI 1993/744 as applied by regulation 34.

363. This regulation takes the same approach as regulation 43 and includes the same changes (*Changes 22 and 48*) to repair the consequences of the introduction of K codes and make clear for what purposes the new employer is deemed to have made the old employer’s payments. See paragraphs 213 to 221 on page 43 and 337 to 338 on page 65.

Regulation 53: Form P46 cases: subsequent procedure on issue of employee’s code

364. This regulation deals with codes issued by the Inland Revenue and adjustments they may require the employer to make to restore cumulative deductions after an employee changes jobs. It is based on regulation 33 of SI 1993/744 with three minor changes.

365. First, regulation 33 of SI 1993/744 requires the employer to deduct or repay tax “in accordance with regulation 14”. That might be taken to mean “use the new code on the cumulative basis”. But sometimes the Inland Revenue issue a code and require the new employer to use it on the non-cumulative basis (as regulation 17 of SI 1993/744 provides for). *Paragraph (1)* of this regulation reflects this possibility by simply requiring the employer to deduct or repay “by reference to that code”. This is a change in the law (*Change 56*) only to the extent that it prevents employers or employees arguing that the Inland Revenue cannot in these circumstances require use of the non-cumulative basis. It brings the law into line with practice. It is also made in respect of pensioners in regulation 61.

366. Then, as with regulations 43 and 52:

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

- *paragraph (3)* treats figures of pay and tax notified pay the Inland Revenue as payments made and tax deducted by the employer as part of *Change 48* (see paragraph 337 on page 65); and.
- *paragraph (4)* repairs a missed consequential from the introduction of K codes as part of *Change 22* (see paragraphs 213 to 221 on page 43).

Chapter 3: New pensioners: Forms P45 and P46

Overview

367. This Chapter complements Chapter 2 of this Part. It sets out the similar but different procedures that apply at the start of a pension.

Regulation 54: Scope of Chapter 3

368. This regulation limits the application of Chapter 3 of this Part. It is a consequence of making these separate provisions to bring out more clearly the procedures for a new pensioner.

Regulation 55: PAYE pension income paid by former employer

369. This regulation deals with an employee who retires on a pension paid by the former employer. It is based on regulation 26(1) and (2) and part of regulation 17(1) of SI 1993/744 with three minor changes.

370. The first change recognises that in practice some employers provide information other than in the form (Form P160) provided by the Inland Revenue. Regulation 26(1)(b) of SI 1993/744 requires the pension payer (who is also here the former employer) to provide the Inland Revenue with information about the pensioner and about emoluments paid and tax deducted (a “pensioner’s retirement statement”). The pension payer must also give a copy to the pensioner. Broadly speaking this takes the place of the Form P45. The regulation requires the pension payer to use “the form provided”. But in practice the Inland Revenue accept a substitute form or letter from the employer. This regulation reflects this. This change (*Change 57*) brings the legislation into line with practice.

371. Second, *paragraph (4)* includes some additional information that is required in Form P160 in practice. For example, it caters for pensions paid at various intervals where regulation 26(2)(g) of SI 1993/744 assumes pensions will be paid weekly or monthly. This is part of *Change 38* (see paragraphs 300 to 304 on page 59).

372. *Paragraph (2)* is based partly on regulation 17(1)(b) of SI 1993/744 which provides for the non-cumulative basis only in the year of retirement (subject as usual to any new code from the Inland Revenue).

373. The first part of regulation 26(1), which provides that no Form P45 is needed, is dealt with in regulation 36(2). This allows this regulation to focus on what must be done.

Regulation 56: PAYE pension income paid by other pension payer

374. This regulation deals with a pension paid by someone other than the former employer to a pensioner who gives Parts 2 and 3 of Form P45 to the pension payer when the pension starts. It is based on regulation 26(3) and (4) and part of regulation 17(1) of SI 1993/744 with two minor changes.

375. First, it omits as unnecessary the obligation on the pension payer to give the pensioner information. Regulation 26(3)(c) of SI 1993/744 requires pension payers to “make a copy of the statement [*Form P45 Part 3*] on the form provided and deliver it to the employee”. This was added by SI 1996/804 and (according to the explanatory note) was intended to ensure that employees receive a copy of the statement sent to the Inland Revenue (Form P160). The intention appears to have been to match regulation 26(1)(b)(iii) of SI 1993/744, which was introduced at the same time. That makes sense in the context of the changes made by SI 1996/804 to ensure that pensioners (and employees generally) had the information they needed for Self Assessment. But regulation 26(3) of SI 1993/744 applies only if a person other than the former employer pays the pension. The pensioner will then already have Part 1A of Form P45 from the former employer. So it seems that the addition of paragraph (3)(c) was unnecessary. It is omitted from this regulation. This change (*Change 58*) brings the law into line with practice.

376. Second, *paragraph (4)* treats the receipt of the Form P45 as the issue of the code shown in the form. This is part of *Change 47*. See paragraph 336 on page 64.

Regulation 57: Information to be provided in Form P46 if code not known: non UK residents

377. This regulation requires pension payers to send information to the Inland Revenue about pensions paid to certain non-residents. It is based on regulation 28(4)(b) to (5B) of SI 1993/744 with minor changes as made in regulation 46.

378. *Paragraph (2)* makes explicit that the form regulation 28(5A)(a) of SI 1993/744. requires the pension payer to use to send information about the pensioner to the Inland Revenue is Form P46.

379. Pensioners are not required to complete the Form P46 so there is nothing equivalent to regulation 46(2) in this regulation or in regulation 58.

Regulation 58: Information (Form P46) and procedure if code not known: UK residents

380. This regulation requires pension payers to give the Inland Revenue information and deduct tax using the emergency code on the non-cumulative basis if they start to pay pensions to UK resident pensioners who do not give them Forms P45. It is based on regulation 28(1) to (4)(a) and regulation 31(1), (3) and (4) of SI 1993/744 with minor changes as made in regulation 46.

Regulation 59: UK resident pensioner's code treated as issued by Inland Revenue

381. This regulation treats the emergency code operated in accordance with regulation 58 as having been issued by the Inland Revenue. It is based on regulation 32 of SI 1993/744 with *Change 47* (see paragraphs 336 on page 64 and 354 on page 68).

Regulation 60: Late presentation of Form P45

382. This regulation deals with Forms P45 that pension payers get after the start of a pension. It is based on regulation 34 of SI 1993/744 with minor changes in the law.

383. Regulation 60 is similar to regulations 51 and 52 and makes the same changes to treat codes as issued (*paragraph (4)*), to deal with Forms P45 received after a code has been issued (*paragraph (7)*), and to omit the special provision for Forms P45 from 1992-93.

384. *Paragraph (5)* includes an additional change. Regulation 34 of SI 1993 applies to pension payers as it does to other employers. That would require pension payers to use the code in the Form P45 on the cumulative basis if that is what the Form P45 indicated. But in practice pension payers are expected to use the code on the Form P45 on the non-cumulative basis for payments in the tax year to which the Form P45 relates. Paragraph (5) requires them to do so. This is in line with what is required if a former employer pays a pension to a former employee (see regulation 55(2)). It is a change in the law (*Change 59*) to the extent that it prevents an employer or employee arguing that the cumulative basis should be used. It brings the law into line with practice.

Regulation 61: Subsequent procedure on issue of UK resident pensioner's code

385. This regulation deals with new pensioners for whom the Inland Revenue issue a different code (and possibly takes steps to restore cumulation). It is based on regulation 33 of SI 1993/744. It is a near-duplicate of regulation 53 in Chapter 2 of this Part with the same minor changes made there.

Chapter 4: Miscellaneous

Overview

386. Chapter 4 contains six miscellaneous regulations which:

- require employers to deduct or account for tax in respect of notional payments (regulation 62);
- require employers in some circumstances to make repayments to employees who are not getting paid on their usual pay day (regulation 63);
- prevent repayments to employees in some circumstances involving trade disputes (regulation 64);

- require the Inland Revenue to make repayments to certain employees who have become unemployed (regulation 65);
- require employers to maintain deductions working sheets (regulation 66); and
- require employers to give employees end of year statements of relevant payments and tax deducted (Forms P60) (regulation 67).

Regulation 62: Deductions in respect of notional payments

387. This regulation requires employers to deduct tax in respect of notional payments from relevant payments actually made at the same time or later in the same income tax period, and to account for any tax they cannot deduct. It is based on parts of regulation 13 of SI 1994/1212 and section 710 of ITEPA.

388. Notional payments are certain relevant payments that an employer is treated as making by Chapters 3 and 4 of Part 11 of ITEPA. Examples are payments in the form of readily convertible assets (for example, gold bars and, subject to some exceptions, shares in a quoted company).

389. Section 710 of ITEPA provides for employers to deduct tax in respect of notional payments from actual relevant payments made at the same time or later in the same income tax period. It also provides for employers to account for any tax which cannot be deducted. This leaves implicit (as did section 203J of ICTA and SI 1994/1212 before it) precisely how tax in respect of notional payments features in the calculation of deductions and repayments under the PAYE regulations. This regulation makes it explicit.

390. The provisions are made in this one regulation as notional payments are met in practice by only a minority of employers. But other regulations include signposts to alert readers to paragraphs (4) and (5) of this regulation should they need to deal with notional payments. The other regulations are regulations 35, 37, 66, 68, 71, 81, 102, 185 and 188.

391. There is another aspect of notional payments which is not dealt with by this regulation but which it is convenient to address in commentary here in the context of notional payments generally. SI 1994/1212 made provision for how PAYE was to apply to notional payments. Much of it was incorporated in ITEPA. But regulation 13 was not, as it deals with the application of SI 1993/744 in relation to notional payments.

392. Regulation 13 of SI 1994/1212 applies most of the regulations in SI 1993/744 to tax accounted for in respect of notional payments as they apply to tax to be deducted from actual payments, with some modifications. This “deeming” works. It has the benefit of keeping all the provisions about the way SI 1993/744 applies in relation to notional payments in one place. But it leaves readers to remember that references to tax deducted must generally be read as meaning also tax accounted for;

and to remember also there are some specific modifications. These Regulations take a different approach. They refer explicitly, where relevant, to tax accounted for as well as to tax deducted.

393. In order to integrate notional payments in the Regulations consistently and logically they also make a minor change. Regulation 13 of SI 1993/744 does not deal explicitly with amounts *to be deducted or accounted for*. An example is where an employer cannot deduct tax from actual payments made at the same time as a notional payment. Another example is where an employer does not deduct and then fails to account for tax in respect of a notional payment.

394. It seems clear that amounts to be deducted or accounted for were intended to be covered. It is, for example, implicit in regulation 13(7) of SI 1994/1212. That modifies regulation 49 of SI 1993/744 (formal determination of tax payable by employer). It would make no sense to do so if tax an employer failed to account for were not to be dealt with in essentially the same way as tax an employer failed to deduct.

395. In addition, reading regulation 13(1) SI 1994/1212 narrowly to apply only to amounts actually accounted for would lead to anomalies. For example, an employee is, subject to some exceptions, given credit for tax an employer should have deducted but did not. But employees would not be entitled in any circumstances to credit for tax an employer should have accounted for but did not. (See paragraph 882 on page 141.)

396. These Regulations remove such anomalies by providing explicitly for:

...the amount of tax [*deducted etc*]...**or to be deducted or accounted** for under regulation 62(4) or (5) (notional payments) (*emphasis added*)

in regulations 35, 37, 66, and 102 and with equivalent provisions in regulations 81, 82, 185 and 188. This is a change in the law (*Change 35*) only to the extent that it removes room for the argument that tax due in respect of notional payments should not be dealt with in the same way as tax an employer is liable for in respect of relevant payments which are actual payments. It does not affect practice.

Regulation 63: Repayment during unpaid leave

397. This regulation provides for repayments of tax to employees on unpaid leave if the cumulative basis is used for them and the employees ask for repayments. It is based on regulation 35 of SI 1993/744.

398. Regulation 35 of SI 1993/744 is headed “repayment during absence from work through sickness etc”. Regulation 35(2) of SI 1993/744 provides that the regulation applies if the absence is “through sickness or other similar cause”. But regulation 35(3) of SI 1993/744, a provision first introduced in 1945, extends this to all unpaid absences (other than those due to involvement in trade disputes) “as if the

absence was due to sickness or other similar cause”. To make things clearer, this regulation makes no reference to the reason for the unpaid absence.

399. A repayment is not automatic. One of the conditions for it is that an application is made in person by the employee or the employee’s authorised representative. Regulation 35 of SI 1993/744 does not state explicitly to whom the application should be made. But it is implicit that the application should be made to the employer. *Paragraph (1)(d)* of this regulation makes this explicit.

400. *Paragraph (2)(b)* puts more simply the requirements of regulation 35(1)(b) and (c) of SI 1993/744 which require an employer to keep records as if a relevant payment had been made.

Regulation 64: Trade disputes

401. This regulation restricts repayments of tax to employees who are “on strike”. It is based on regulations 36 and 42(7) of SI 1993/744 with a minor change.

402. *Paragraph (7)(a)* includes the minor change. Regulation 36(4)(a) of SI 1993/744 requires employers to issue a notice to employees showing how much tax has not been repaid but does not say when employers must do this. This regulation requires employers to do so by the date they must also give Forms P60 to employees (see regulation 67). This is a change (*Change 60*) in the law and possibly in practice: these provisions for strikers are so very rarely met in practice that practice is not known. It ensures employees have information they may need for a tax return in good time.

403. This regulation also:

- provides in *paragraph (3)* for a calculation in accordance with regulation 23 in place of the indirect way regulation 36(2)(b) of SI 1993/744 requires an employer to “calculate, in accordance with regulation 35(1), the amount of tax (if any) to be repaid”;
- provides in *paragraph (8)* what an employer must do if tax has not been repaid where regulation 36(5) of SI 1993/744 requires the employer to “proceed in accordance with regulation 42(7)”;
- provides in *paragraph (9)* for a benefits officer to certify (if appropriate) that the employee is not precluded from receiving jobseeker’s allowance due to involvement in a trade dispute without the reference in regulation 36(6) of SI 1993/744 to “a determining authority”. Determining authority refers to part of the hierarchy of decision-making bodies under the Jobseekers Act. If there is a disagreement as to whether or not the individual is participating or directly interested in the trade dispute it may be resolved through an independent tribunal and (if necessary) the courts. This regulation does not prevent that. But there is no need to refer to it; and

- uses the up to date definitions of trade dispute in regulation 2. Regulation 24(3) of SI 1973/334 as amended by SI 1982/66 gave “trade dispute” the meaning it had in section 19 of the Social Security Act 1975 (or its Northern Ireland equivalent). That definition was consolidated as section 27 of the Social Security Contributions and Benefits Act 1992. The 1993 consolidation of the PAYE Regulations omitted the explicit definition of “trade dispute”. This regulation restores the link. The definition is set out in paragraph 70 on page 16.

Regulation 65: Repayment if no longer employed

404. This regulation provides for repayments of tax by the Inland Revenue during the year if an employee is no longer employed at all. It is based on regulation 37 of SI 1993/744 with three minor changes.

405. There are two distinct sets of circumstances in which a repayment may be made. An individual may cease altogether to be employed and either:

- intend not to be employed again in the tax year (a “cessation repayment”); or
- expect or hope get another job in the tax year (an “unemployment repayment”).

406. The first minor change is that *paragraphs (1) and (5)* make clearer that the Inland Revenue needs an application before making a repayment. Regulation 37(1) of SI 1993/744 applies in the case of “a person who has ceased to be employed”. Regulation 37(2) then provides that the person “on applying for a repayment” is required to provide certain evidence. But it does not explicitly require an application. This is a change in the law (*Change 61*) only to the extent that it prevents anyone arguing the Inland Revenue should make a repayment without an application. It brings the legislation into line with practice.

407. Second, this regulation clarifies what regulation 37(2) of SI 1993/744 means when it requires applicants to certify that they were not benefit claimants “for the relevant period”. *Paragraphs (3)(a) and (4)* specify when that is, in line with the application form (Form P50) used in practice. This change (*Change 62*) brings the legislation into line with practice.

408. Third, *paragraphs (5) to (7)* give more indication of how the Inland Revenue should arrive at the repayment to be made. Regulation 37 of SI 1993/744 requires the Inland Revenue to make:

...any repayment which may be appropriate at any date, having regard to his cumulative emoluments at that date, the corresponding cumulative tax, and any other emoluments paid to the employee for the year but not included in the cumulative emoluments...

409. The reference simply to the employee’s cumulative tax is a missed consequential from the introduction of K codes. It would lead to an excessive repayment if the overriding limit had led an employer to deduct less than the

corresponding cumulative tax. *Paragraphs (6)(a) and (7)(a)* of this regulation provide for the Inland Revenue to have regard to the lower of the two figures (just as a new employer would on getting a Form P45 – see, for example, regulation 43).

410. The reference to “other emoluments paid to the employee for the year but not included in the cumulative emoluments” appears capable of being explained simply. It caters for other payments the employee may have received but which are not shown on the Form P45 – for example, pay from a second job which ended earlier in the tax year. The reference to amounts paid “*for the year*” may have been intended to cater for the “earnings basis” of taxation of income from employment when payments might be assessable for a year other than that in which they were paid. With the “receipts basis” this distinction was overtaken for earnings (but not for pensions and social security income). In any event the information available to the Inland Revenue before the end of the tax year, on Forms P45, will give relevant payments *received* in the tax year whether or not they are assessable for that year. This regulation requires the Inland Revenue to have regard to those amounts.

411. But the reference in regulation 37 of SI 1993/744 to amounts “paid” is at odds with long-standing practice as regards cessation repayments. The Inland Revenue then also has regard to amounts of PAYE income which will be paid later in the tax year. The Form P50, on which employees are asked to apply for a repayment, seeks information about pensions (including the state pension). The reason is that income to be received later in the year can then be taken into account in the repayment. That way the individual is less likely to end the year with an underpayment. *Paragraph (5)(c)* of this regulation makes this explicit. It shortcuts the steps the Inland Revenue might otherwise take to determine a new code which takes account of the expected income and then make a repayment having regard to that code.

412. There is nothing in regulation 37 to require the Inland Revenue to have regard to the code determined for an employee when making a repayment. But it must be implicit (at least as regards unemployment repayments). Otherwise cumulative deductions could not be restored when the applicant gets a job. *Paragraph (5)* of this regulation makes it explicit.

413. This regulation otherwise maintains the position in regulation 37 of SI 1993/744 – that is, that the Inland Revenue must make whatever repayment is appropriate. It does not spell out *precisely* how the repayment must be calculated. Doing so would involve disproportionate complexity in order to cater for all the circumstances which may be taken into account in order to repay as nearly as possible the right amount of tax – right in the sense of leaving the applicant with neither an underpayment nor an overpayment of tax at the end of the tax year.

414. This is a change in the law (*Change 63*) to the extent that it denies individuals the ability to argue that the code and other information should not be taken into account by the Inland Revenue when making a repayment. It brings the regulation into line with practice.

415. In addition *paragraph (3)(b)* of this regulation makes clear applicants for a cessation repayment must certify that they do not expect to be employed in the remainder of the tax year. This is covered by the words “such evidence of his unemployment as the inspector may require” in regulation 37(2) of SI 1993/744.

Regulation 66: Deductions working sheets

416. This regulation requires employers to keep records in respect of employees for whom they have codes. It is based on regulation 38 and regulation 17(3) and (4) of SI 1993/744.

417. The provisions in regulations 38 and 17(3) and (4) of SI 1993/744 have been brought together in this regulation to avoid repetition.

418. *Paragraph (4)(c)* includes *Change 35*. See paragraphs 391 to 396 on page 73.

Regulation 67: Information to employees about payments and tax deducted (Form P60)

419. This regulation requires employers to give certificates of pay and tax (Forms P60) to certain employees after the end of each tax year. It is based on regulation 39 of SI 1993/744 with two minor changes.

420. First, *paragraph (2)* omits the requirement in regulation 39(2)(g) of SI 1993/744 that substitute forms used by employers must *show* that they have been approved by the Board of Inland Revenue. It is important that substitute forms are approved by the Board but unnecessary for them to show that they have been approved. This change (*Change 64*) brings the law into line with practice. It is also made in regulation 132 for end of year certificates for armed forces reservists.

421. Second, *paragraphs (2) and (3)* provide for the information which is included in the Form P60 in practice (although practice varies a little according to which version of Form P60 is used). This is part of *Change 38*. See paragraphs 302 to 304 on page 59.

422. The list in *paragraph (2)* includes several items that are not included in regulation 39(2) of SI 1993/744.

423. Then *paragraph (3)* removes ambiguity in regulation 39(3) of SI 1993/744. That provides:

(3) In the case of an employee taken into employment after the beginning of the year, the certificate shall include any emoluments paid to the employee by any previous employer and any tax deductible from those emoluments, being emoluments and tax which the employer giving the certificate was required to take into account for the purposes of deducting or repaying tax in the case of emoluments paid by him.

424. It is not clear if “include” means “include within amounts actually paid and deducted” (as one set of figures) or “include in Form P60” (as a separate set of figures). Paragraph (3) requires separate figures (and the totals) where appropriate.

Part 4: Payments, returns and information

Overview

425. This Part provides for:

- the tax that employers must pay to the Inland Revenue, associated returns and other matters (*Chapter 1*);
- other returns and information to be given to the Inland Revenue and employees (*Chapter 2*); and
- the inspection of an employer’s PAYE records (*Chapter 3*).

Background

426. An earlier draft of this Part was included in the third progress report made to the project’s Consultative and Steering Committees in July 2002. That included more details of the history of some of the regulations in Part 5 of SI 1993/744 on which this Part is based. It is available from the project or from www.inlandrevenue.gov.uk.

Chapter 1: Payment of tax and associated returns

Overview

427. This Chapter deals with:

- periodic payments by the employer to the Inland Revenue of income tax in respect of relevant payments to employees (and recovery from the Inland Revenue of tax repayable by the employer to employees) (*regulations 68 to 72*);
- returns by the employer to the Inland Revenue mainly relating to relevant payments to employees, and income tax that the employer must deduct from or repay to employees (*regulations 73 to 75*); and
- failures to comply with this Chapter (*regulations 76 to 84*).

Regulation 68: Periodic payments to and recoveries from the Revenue

428. This regulation deals with amounts that employers must pay to (or can recover from) the Inland Revenue in relation to each tax period. It is based on regulations 40, 41(1) and (2), and 42(6) of SI 1993/744 and regulation 13(5) and (6) of SI 1994/1212 with a minor change.

429. Regulations 40(2) and 41(2) of SI 1993/744 deal with payments by employers to the Inland Revenue. They are heavily compressed and deal with particular modifications that only apply where the employer has employees involved in a trade

dispute. That material has been separated out leaving this regulation to deal with the majority of cases where an employer does not have employees involved in a trade dispute. Regulation 71 deals separately with the modifications that may be involved for an employer with employees involved in a trade dispute.

430. *Paragraph (3)(a)*'s use of the words "in the tax year" is new. It means that amounts recoverable for a tax period can only be offset against amounts payable for later tax periods in the same tax year. The result is that the total of periodic payments and recoveries to or from the Inland Revenue for a tax year should agree with the total amount shown as deducted or repaid in relation to employees for that tax year (see regulation 73). That meets a request to make clearer that certain references to income tax periods are to income tax periods in a single tax year (see paragraph 473 on page 86).

431. This change (*Change 65*) does not affect an employer's right to recover an amount - merely the method by which it can be recovered. If the recoverable amount has not been offset against later payments due for the tax year, the employer can get a repayment from the Inland Revenue.

432. This regulation and regulation 71 include a provision for accounting for income tax on "notional payments" from SI 1994/1212. Regulation 13(5) and (6) of SI 1994/1212 are dealt with by including tax to be accounted for, in relation to notional payments, in the definition of "A". That might initially appear different from regulation 13(5) and (6) of SI 1994/1212 which apply to regulations 40(2) and 41(2) but not to regulation 42(6) of SI 1993/744. Regulations 40(2) and 41(2) of SI 1993/744 deal with what is payable to the Inland Revenue; regulation 42(6) of SI 1993/744 deals with what an employer can recover. By contrast, this regulation deals with what is payable by the employer and also with what the employer can recover.

433. It might appear that in an exceptional tax month the employer has an advantage under SI 1993/744 that is denied by this regulation. For example, suppose that in a tax period an employer has to account for tax of £100 on notional payments and is liable to repay £70 of tax to employees. It might then appear that the employer must pay £30 to the Inland Revenue (under regulation 40(2) of SI 1993/744) but can also recover £70 from the Inland Revenue (under regulation 42(6) of SI 1993/744). So the employer recovers a net amount of £40 where a £30 payment would be expected.

434. However the tail end of regulation 42(6) of SI 1993/744 prevents an employer getting double relief by recovering from the Inland Revenue something that is "otherwise being recovered" from the Inland Revenue. And the whole of the £70 in the above example is "otherwise being recovered" by offset under regulation 40(2) of SI 1993/744. So the employer would have to make a payment of £30 under SI 1993/744. That is also the result under this regulation.

Regulation 69: Due date and receipts for payment of tax

435. This regulation gives the date by which the employer must pay any tax that is due under regulation 68(2) and deals with receipts for such payments. It is based on regulations 40(1), 41(1) and 42(1) of SI 1993/744.

Regulation 70: Quarterly tax periods

436. This regulation allows employers to use a tax quarter as the tax period if it seems likely that their average total monthly payments in respect of PAYE income tax, NICs, student loan deductions and subcontractor payments will be less than £1,500. It is based on regulation 41(1) and (3) of SI 1993/744 with a minor change.

437. *Paragraph (3)* includes a change to correct an oversight in the definition of “S” in regulation 41(3) of SI 1993/744 (as amended by regulation 9 of SI 2003/536). The definitions of “P”, “N” and “L” all disregard any adjustment under regulation 7(2) of the Working Tax Credit (Payment by Employers) Regulations 2002. But the definition of “S”, which is similarly affected by regulation 7(2), does not disregard this adjustment. So, taken literally, gross amounts are taken for P, N and L but a net amount is taken for S.

438. This change (*Change 66*) to the definition of “S” reduces the number of employers that have reasonable grounds for believing that their average monthly amount is less than £1,500 so that they are entitled to account for tax on a quarterly basis. But it is likely that few employers, if any, will be affected in practice and it corrects an obvious error.

Regulation 71: Modification of regulation 68 in case of trade dispute

439. This regulation only applies if a tax repayment has been withheld from an employee under regulation 64. It allows the employer to reduce the tax, which would otherwise be payable, for a tax period by income tax repayments which the employer has to withhold in that tax period. This regulation is based on regulations 40(2), 41(2) and 42(6) of SI 1993/744 and regulation 13(5) and (6) of SI 1994/1212 with minor changes.

440. *Paragraph (1)* gives readers a better way into the following details. It meets requests from users of these regulations for such an opening paragraph.

441. *Table 3 in paragraph (3)* allows an employer to reduce the amount payable to the Inland Revenue by up to P. *Paragraph (5)* defines P as the amounts the employer would have repaid to employees in the income tax period but for the trade dispute. Deducting all or part of P in this way has the effect of giving the employer relief (“advance relief”) before the employer is liable to make the repayment to the employee. This makes it more likely that the employer has the funds to repay tax to the employees as soon as the dispute ends.

442. The table deals separately with the first and subsequent income tax periods in which there is a trade dispute. This is to make clearer how advance relief must not result in double relief.

443. For the first tax period in which advance relief can be given there is no need for the third column in the table to mention amounts relieved in previous periods. Advance relief can be given for an amount up to P.

444. For subsequent tax periods, the table introduces Q into the third column to take account of advance relief given in earlier tax periods (for amounts that were not actually repayable to employees in those earlier tax periods). Effectively, Q stops the employer from getting the same relief again in the later period. And further advance relief may be generated in a later tax period - for an amount of up to whatever value P has for that later period.

445. An employer clearly cannot make negative payments to the Inland Revenue. So the formulas in regulations 40 and 41 of SI 1993/744 cannot give a negative number. Using the symbols in this regulation, that is equivalent to saying that $(P + B)$ must not exceed $(A + Q)$. But, in a case where $(P + B)$ is greater than $(A + Q)$, some rule is needed to decide the priority of set-off between tax actually repaid to employees (B) and tax which would have been repaid but was not (P). Advance relief is intended to be given against payments that would otherwise be made to the Inland Revenue. That points to P being the final amount that is deducted.

446. That conclusion is supported by the result if P were to be offset before B. Priority for P could mean that the employer had in effect no credit for amounts actually repaid to employees. That would result in the employer having to pay the Inland Revenue more tax than the employer can deduct from payments to employees. That would be contrary to the purpose of the provisions.

447. *Paragraph (3)* provides that relief is given to an employer for tax actually repayable to employees (B) before relief is available for amounts that are not yet repayable to employees (P). This is a change (*Change 67*) in the law only to the extent that it prevents someone contending that this regulation has the effect of making an employer liable to pay more tax than the employer can deduct. It is not a change in practice.

448. *Paragraph (4)* deals separately with the modifications to calculate the amount, if any, recoverable by the employer from the Inland Revenue when this regulation applies.

449. The definition of B in regulations 40(2) and 41(2) of SI 1993/744 went wrong on consolidation of the regulations in 1993. Using the lettering in SI 1993/744, the formula $(A + B) - (C + D)$ could result in an employer paying to the Inland Revenue more than the employer deducts from employees. This is because the definition of

“B” in SI 1993/744 lost the condition, present from 1982 to 1993, that it only includes amounts for which relief was effectively obtained in earlier periods.

450. *Paragraph (5)* corrects that slip. It bases the definition of Q (which corresponds to B in SI 1993/744) on the way in which it was effectively defined from 1982 to 1993. This change (*Change 68*) to the definition of Q may in principle be in favour of the employer as it prevents greater sums being payable to the Inland Revenue than are deductible by the employer. But it has no effect in practice.

Regulation 72: Recovery from employee of tax not deducted by employer

451. This regulation deals with two cases in which an employee may effectively be required to pay tax an employer failed to deduct. It is based on regulations 42(2), (3) and (4), 101(6) and 101A(2) of SI 1993/744 and regulation 13(7) of SI 1994/1212 with a minor change.

452. *Paragraph (2)* includes the words “payments made to an employee” and “payments made to that employee” in the definitions of “the deductible amount” and “the amount actually deducted” respectively. There are no corresponding words in regulation 42(2) or 42(3) of SI 1993/744. They make explicit what is implicit - that the credit for tax to be denied an individual employee must relate only to that individual employee.

453. The amount deductible from an individual employee is rarely likely to be the amount that is specified in regulations 40(2) or 41(2) of SI 1993/744. The amounts specified there will usually be totals for more than one employee. It seems clear that regulation 42(2) and 42(3) of SI 1993/744 are looking at cases where less tax is deducted from a particular employee than should have been deducted during the income tax period concerned. This regulation makes that clearer by omitting the references, in regulation 42(2) and (3) of SI 1993/744, to “amount specified in regulation 40(2) or 41(2)”. This is a change (*Change 69*) only to the extent that it prevents anyone arguing an employee should pay tax that an employer failed to deduct when paying a different employee.

454. Regulation 42(2) and (3) of SI 1993/744 refer to tax being “recovered from the employee”. That wording may suggest that the exact amount for which a direction is given becomes payable by the employee. In fact the employee loses entitlement to receive a credit in the employee’s assessment for the tax that was not deducted. Whether that results in the employee having to pay more tax depends on the individual circumstances of the employee (such as other income and allowances for the year concerned).

455. *Paragraph (6)* avoids the use of “recovered from the employee”. It makes the actual effect of a direction clearer by referring directly to the provisions that would otherwise give the employee entitlement to credit for tax that was not deducted.

456. *Paragraph (7)* also recognises that only part, or none, of the amount for which a direction is given may in fact become payable by the employee. Only parts that actually become payable will carry interest. The words “as if it were unpaid tax due from an employer” have been added to paragraph (7) to improve the way that paragraph (7) relates to regulation 82. And paragraph (7) omits the opening words of regulation 42(4) of SI 1993/744 that refer to section 88 of TMA because section 88 cannot have effect for any tax year ending after 5 April 1998.

Regulation 73: Annual return of relevant payments liable to deduction of tax (Forms P35 and P14)

457. This regulation deals with the return (Forms P35 and P14) which employers must make after the end of the tax year. It is based on regulation 43(1) to (7) and (12) of SI 1993/744 with a minor change.

458. This return allows the Inland Revenue to check that the total of payments made to it by the employer for a tax year agrees with what the employer deducted from employees during that year; and to link the payments and deductions made by the employer with each employee’s tax records.

459. *Paragraph (4)* asks for specific details to identify each employee rather than leaving those details to be specified by the Board. It is part of the change (*Change 38*) generally to bring the regulations into line with what information is in practice provided. See paragraph 304 on page 59.

460. *Paragraph (6)* uses wording based on that in regulation 67(3) for the information required in relation to previous employments to make clearer that the same figures are required on the P14 and the P60.

461. *Paragraph (7)(b)(ii)* refers to “total net tax deducted or repaid” where regulation 43(5)(b) of SI 1993/744 on which it is based asks for “total net tax deductible or repayable”. Paragraph (7)(b)(ii) uses different wording because Box 13 on the reverse of the 2002-03 form P35 requires a net total of figures in a column headed “Income tax deducted or refunded in this employment”. This is another aspect of the change (*Change 38*) generally to bring the regulations into line with practice. See paragraph 304 on page 59.

Regulation 74: Annual return of relevant payments not liable to deduction of tax (Form P38A)

462. This Regulation requires a return of information from employers of payments made during a tax year to some employees for whom deductions working sheets were not required. It is based on regulation 44 of SI 1993/744 with a minor change.

463. Regulation 44 of SI 1993/744 does not deal with what form the return should be in, when it should be made or what should be in it. Nor does it provide that the return needs to cover certain employees who have been paid more than £100 in the year or employed for more than a week. These Regulations do so.

464. *Paragraphs (1) and (2)* say who the return must go to and what it must contain. *Paragraphs (3) and (4)* set out the employees covered. That return is to be made on Form P38A or delivered electronically – see regulation 211. This is a change (*Change 70*) which corrects an oversight in the 1993 consolidation and brings the law into line with practice.

Regulation 75: Additional return in case of trade dispute

465. This regulation requires employers to make additional returns in exceptional circumstances. That is where an end of year return under regulation 73 is completed on the basis that an amount has been repaid to an employee even though repayment of that amount was deferred under the provisions of regulation 64 (trade disputes). It is based on regulation 45 of SI 1993/744.

466. If the deferred repayment is, in due course, made to the employee there is no problem with the return under regulation 73. But if it later turns out that regulation 64 prevents the amount being repaid to the employee the return is out of step with actual deductions and repayments. In order to keep records straight the employer has to send a further return and statement to the Inland Revenue. This is also important for employees. The Inland Revenue can then take action to deal with the fact that the employee has been treated as receiving a tax repayment that was never received.

Regulation 76: Certificate if tax in regulation 73 return is unpaid

467. This regulation allows the Inland Revenue to prepare a certificate if an amount shown as payable on the employer's return under regulation 73 remains unpaid. It is based on regulation 43(8) of SI 1993/744.

468. The certificate can be used as evidence for formal recovery proceedings. Regulation 84 sets out the procedures that can be used to recover the amount shown in the certificate.

Regulation 77: Return and certificate if tax may be unpaid

469. This regulation allows the Inland Revenue to call for a return from the employer in cases where they are not satisfied that the employer has paid all that was due for certain tax periods. It is based on regulations 47(1) to (5) and 54(6) of SI 1993/744 with minor changes.

470. The Inland Revenue may then certify amounts that are shown as due in such a return but which have not been paid. The certificate can be used as evidence for formal recovery proceedings. Regulation 84 sets out the procedures that can be used to recover the amount shown in the certificate.

471. *Paragraph (4)* makes explicit that the 14 day period for delivering a return starts when the notice is issued asking for the return; regulation 47(2) of SI 1993/744 does not give the start date. This is a change (*Change 71*) in the law only to the extent that it prevents someone contending for a different date on which the period starts. This change is also made in regulations 78, 97, 117 and 147.

472. Regulation 47(3) of SI 1993/744 says that a notice that covers consecutive tax periods has effect for “these Regulations” as if the consecutive tax periods were one tax period. Taken literally, that means that a notice could affect the amounts that would otherwise be due for those consecutive tax periods. For instance the amounts Q and P for a deemed single tax period need not be the same as the sum of the amounts Q and P for the consecutive tax periods concerned (see regulation 71).

473. Notices to make returns are clearly not intended to affect the amounts that are payable to or recoverable from the Inland Revenue. *Paragraph (5)* of this regulation makes that explicit by limiting the deeming to “this regulation”. In addition, and in response to comments, the words “in a tax year” are used in paragraph (5) to make clear that the consecutive tax periods must all be in the same tax year. This is a change (*Change 72*) in the law but not practice. The same change is made in regulation 78 (notice and certificate if tax may be unpaid).

Regulation 78: Notice and certificate if tax may be unpaid

474. This regulation allows the Inland Revenue in certain cases, and after considering the employer’s past payments, to specify the tax due from an employer and notify the employer accordingly. It is based on regulation 48(1) to (7), (11) and (12) of SI 1993/744 with minor changes.

475. The specified amount is payable unless, during the notice period, the employer satisfies the Inland Revenue that there is no remaining liability for the tax period concerned or requires an inspection of the employer’s PAYE records.

476. A certificate prepared under *paragraph (8)* can be used as evidence for formal recovery proceedings. Regulation 84 sets out the procedures that can be used to recover the amount shown in the certificate.

477. *Paragraph (4)(b)* includes the change (*Change 71*) to make explicit when the notice period starts (see paragraph 471).

478. *Paragraph (5)* includes the change (*Change 72*) made in regulation 77. It only allows consecutive tax periods in the same tax year to be treated as a single tax period and that treatment is only for the purpose of this regulation (see paragraph 473).

479. *Paragraph (5)* allows a notice to extend to consecutive income tax periods to which paragraph (1) applies. Regulation 48(3) of SI 1993/744 permits this only if nothing has been paid in relation to those tax periods. There seems no good reason for preventing aggregation of tax periods just because, say, £1 has been paid for each such period. The distinction in regulation 48 of SI 1993/744 merely means that multiple specifications have to be raised for consecutive tax periods with no obvious benefit for either the employer or the Inland Revenue. Removing this distinction both simplifies this regulation and brings it into closer alignment with regulation 77. This is a change (*Change 73*) in the law but it does not affect what can be achieved in practice.

Regulation 79: Certificate after inspection of PAYE records

480. This regulation allows the Inland Revenue, based on an inspection of the employer's PAYE records, to certify the amount due from an employer but unpaid. It is based on regulation 55(8) of SI 1993/744.

481. Regulation 84 sets out the procedures that can be used to recover the amount shown in the certificate.

Regulation 80: Determination of unpaid tax and appeal against determination

482. This regulation allows the Inland Revenue to use best judgment to determine and notify an amount of tax that is considered unpaid by an employer and gives the employer rights of appeal against the determination. It is based on regulation 49(1) to (4), (7) and (8) of SI 1993/744.

483. The amount determined must not include sums certified under the preceding regulations that are subject to different recovery processes. Nor may the determination include sums for which a direction has been made under regulation 72 relieving the employer of liability to pay the sums concerned. And once a sum is included in a determination under this regulation, regulation 72 cannot be used to give a direction relieving the employer of liability to pay that sum.

484. *Paragraph (6)* contains an explicit reference to paragraph 3(1)(a) of Schedule 3 TMA. This makes it easier (compared to regulation 49(8) of SI 1993/744) for a reader to see that there may be a choice about where an appeal is heard.

Regulation 81: Employee liability if tax unpaid after regulation 80 determination

485. This regulation provides for tax that the employer should have paid under regulation 80 to be recovered (with interest) from the employee in certain cases. It is based on regulations 49(5) and (6), 101(6) and 101A(2) of SI 1993/744 and regulation 13(7) of SI 1994/1212 with a minor change.

486. Regulation 13 of SI 1994/1212 modifies regulation 49 of SI 1993/744 in relation to tax on notional payments. That material is incorporated in *paragraphs (3) and (4)* as part of *Change 35*. See paragraphs 391 to 396 on page 73.

487. This regulation, like regulation 72 (see paragraphs 454 to 456 on page 83):

- avoids the impression that the amount, for which a direction is given, automatically becomes payable by the employee;
- provides a better linkage to the denial in the employee's tax assessment of a credit for the tax not suffered; and
- makes it clearer that interest may not run on the whole amount for which a direction is given.

488. *Paragraph (6)* omits the condition in regulation 49(6) of SI 1993/744 relating to section 88 TMA as it will not be relevant to periods for which these regulations apply. Section 88 TMA was repealed by Finance Act 1996 and cannot apply for assessments made after 5 April 1998.

Regulation 82: Interest on tax overdue

489. This regulation charges interest if an employer does not pay to the Inland Revenue within 14 days after the end of a tax year (17 days after for some electronic payments) the total net tax that should have been paid under regulation 68 for tax periods in that year. It is based on regulations 51(1), (2) and (3) and 52(1) and (2) of SI 1993/744 and regulation 13(5) and (6) of SI 1994/1212 with minor changes.

490. The term “total net tax payable” in *paragraphs (1) and (6)* corresponds to “total net tax deductible” in regulation 51(1) of SI 1993/744 but which is not defined for that regulation.

491. The purpose of regulation 51 of SI 1993/744 is to charge interest on amounts that the employer should have paid to the Inland Revenue for a tax year but which remain outstanding 14 days after (17 days after in some cases) the end of that year. It is implicit that “the total net tax deductible” is therefore looking at the amounts that should have been paid by the employer for that tax year.

492. However, the word “deductible” is not a particularly appropriate word to describe amounts that the employer is liable to account for under these Regulations in relation to notional payments. This regulation uses the word “payable” so that the expression focuses on what should have been paid by the employer; rather than “deductible” where the focus is on what should have been deducted by the employer. This is part of *Change 35*. See paragraphs 391 to 396 on page 73.

493. Regulation 51(2) of SI 1993/744 prevents interest running on amounts where the employer has been relieved of liability to pay those amounts under two specific provisions. There is nothing to prevent interest running on amounts for which the employer has been relieved of liability under regulation 49(5) of SI 1993/744. *Paragraph (4)* corrects this oversight by giving a similar exclusion for amounts where the employer is relieved of liability under regulation 81(4) (which corresponds to regulation 49(5) of SI 1993/744). This is a change (*Change 74*) in the law which is in principle in favour of the employer but will have no effect as it accords with practice.

494. *Paragraph (6)* responds to a request for a definition of “total net tax payable”. Sub-paragraph (b) ensures that the defined amount does not change if the employer decides to recover an amount directly from the Board of Inland Revenue. For example, consider an employer who recovers from the Board £100 for each of the first 6 months and pays £101 for each of the last 6 months of a tax year. That employer will have “total net tax payable” of £12. That “total net tax payable” is the same as if the employer had not recovered anything from the Board but instead simply reduced the amounts payable in each of the last 6 months of the tax year so that a payment was

required of £12 in month 12. Defining the “total net tax payable” is a change (*Change 75*) in the law to the extent that it prevents anyone putting forward a different interpretation in future.

495. Paragraph 21 of Schedule 1 preserves the position for years prior to 2004-05 regarding the use of “total net tax deductible” in regulation 51 of SI 1993/744 and a uniform “reckonable date” of 14 days after the end of the year for calculating interest.

Regulation 83: Interest on tax overpaid

496. This regulation provides for interest to be paid to an employer where tax is repaid more than 14 days after the end of the tax year concerned. It is based on regulation 53A of SI 1993/744 with a minor change.

497. Regulation 53A of SI 1993/744 sets out when interest starts but it does not say when interest ceases. That appears to be an oversight - the corresponding regulation for tax years before 1996-97 explicitly provided that interest ceased when the order for the repayment was issued. *Paragraph (2)* adopts the same approach. This change (*Change 76*) prevents an employer from contending that interest runs to some other date (although what that date would be is unclear).

Regulation 84: Recovery of tax and interest

498. This regulation sets out the way in which amounts of tax and interest payable under this Chapter, but unpaid, can be recovered using certain provisions of TMA. It is based on regulations 43(9), 47(6), 48(6), 52(3), 54(1) to (5) and 55(9) of SI 1993/744 with a minor change.

499. *Paragraph (1)* sets out the regulations that may give rise to amounts within this regulation for which the employer or employee is liable.

500. Regulation 54(1) of SI 1993/744 refers to “Schedule E” but Schedule E has gone with the enactment of ITEPA. Nothing needs to be put in its place because this regulation makes clear what tax is involved.

501. Regulation 54(1) of SI 1993/744 refers to “*any enactment* relating to the recovery”. That leaves open the issue of whether there are Acts other than TMA which need to be considered in terms of how recovery can be effected. *Paragraph (2)* explicitly narrows the scope of recovery methods to Part 6 of TMA. This is a change in the law (*Change 77*) to the extent that it limits scope for argument about the enactments under which amounts can be recovered. But it will have no effect in practice since the Inland Revenue use only the recovery methods set out in Part 6 of TMA. This change is also made in regulation 109(3).

502. Regulation 54(1) of SI 1993/744 also uses the formulation “had been charged ... by way of an assessment on the employer”. The use of that formulation helped make clear that recovery can be made under Part 6 of TMA. But it is not necessary to assume that an assessment is involved. *Paragraph (2)* of this regulation therefore

refers to tax being treated as if it were “income tax charged on the employer”. That is sufficient to bring the recovery provisions of Part 6 of TMA into play.

503. *Table 4* in *paragraph (3)* gives time limits for summary proceedings in relation to amounts covered by this regulation. The different time limits reflect differences in the times at which the amounts to be recovered are likely to become known to the Inland Revenue. For instance a certificate under regulation 55(8) of SI 1993/744 may be prepared some years after the tax was due to be paid. So regulation 55(9) of SI 1993/744 provides that summary proceedings can take place within a year of preparing the certificate.

504. The time limits for summary proceedings in this regulation apply instead of those under section 65 of TMA. Section 65 of TMA does not apply in Scotland (see section 67(2) of TMA). That is why *paragraph (3)* does not apply to Scotland.

Chapter 2: Other returns and information

Overview

505. This Chapter deals with provision of information to:

- the Inland Revenue – mainly about PAYE income provided to employees in a manner that does not require PAYE deductions (*regulations 85 to 93*); and
- employees – mainly about PAYE income provided to employees in a manner that does not require PAYE deductions (*regulations 94 to 96*).

Regulation 85: Employers: annual return of other earnings (Forms P11D and P9D)

506. This regulation requires an employer to give the Inland Revenue information listed in the next two regulations and a declaration concerning compliance with the regulation. It is based on regulation 46(1), (7A) and (7B) of SI 1993/744.

507. The Inland Revenue uses the information provided under this regulation to set employees’ codes and to check they have paid the right amount of tax. Regulation 94 provides for the employer to give the same information to the employees concerned. That helps employees to complete their tax returns (if they make returns) and check their tax codes.

508. Regulation 46(1)(b) of SI 1993/744 defines an employee in relation to whom a P11D return may be needed as an “employee who is employed in employments to which Chapter II of Part V of the Taxes Act applies”. *Paragraph (1)* refers to “employee whose employment is subject to the benefits code” and is supplemented by the definition in *paragraph (3)*. The label in *paragraph (1)* gives a clearer indication of the employees to whom the list in regulation 87 applies.

Regulation 86: Information employer must provide for each employee

509. This regulation lists the information that is required in relation to any employee. It is based on regulation 46(1), (2), (4), (5), (7) and (8) of SI 1993/744 with minor changes.

510. *Paragraph (1)(a) to (d)* all contain an explicit reference to “amounts” being part of the particulars that are required. In the case of items covered by sub-paragraphs (c) and (d) that requirement is clear from regulation 46(5) of SI 1993/744. In relation to items covered by sub-paragraphs (a) and (b), this reflects the fact that forms P9D and P11D ask for the amounts of these items and this is part of the change (*Change 37*) generally to bring the regulations into line with what information is in practice provided. See paragraph 304 on page 59. Regulation 87(1)(c) similarly incorporates an explicit reference to amounts being required (also clear from regulation 46(5) of SI 1993/744).

511. *Paragraph (1)(b)* contains a limitation to things done by the “employer or related third party”. An equivalent limitation is not in regulation 46(2)(a)(ii) of SI 1993/744. That appears to be an oversight because there is no reason to distinguish that case from regulation 46(2)(a)(i), (iii) and (iv), which are all limited to “employer or relevant person”. Adding this limitation is a change in the law (*Change 78*). But it is likely to have little or no effect in practice. First, third party payments within regulation 46(2)(a)(ii) are likely to be rare. Second, employers are unlikely to be aware of any such payments. The removal of the reporting obligation on the employer does not affect the amount on which an employee is taxable. And to the extent that such payments do occur, this change requires the third party making the payment to give information to the employee about that payment.

512. Regulation 87(2) and *paragraph (2)* of this regulation respond to requests to make clearer the extent to which removal expenses and benefits need to be returned.

Regulation 87: Information employer must also provide for benefits code employees

513. This regulation lists the information that is required in relation to employees whose employment is subject to the benefits code. It is based on regulation 46(1), (3), (4), (5), (7) and (8) of SI 1993/744.

514. Various references in regulation 46(3) of SI 1993/744 to provisions of ICTA are replaced by equivalent references to ITEPA.

Regulation 88: Annual return of other earnings: amounts

515. This regulation deals with how employers arrive at figures of earnings required by the previous two regulations. It is based on regulation 46(6) of SI 1993/744.

516. In calculating the amount which may be emoluments of the employee, regulation 46(6)(a)(ii) of SI 1993/744 prevents the employer from making:

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

...any deduction authorised by sections 141(3), 142(2), 145(3) or 156(8) of the Taxes Act;

517. The sections referred to related to deductions from amounts in respect of vouchers and credit tokens, living accommodation and the “residual liability to a benefits charge”. Those deductions were variously expressed to be from “the amount”, “amount ...under subsection (1)” and “the cash equivalent” - essentially from the gross amount that was treated as the employee’s earnings in respect of the particular benefit in question. Regulation 46(6)(a)(ii) of SI 1993/744 therefore made it clear that the employer was not to assume that the employee was entitled to any such deduction when calculating the amount to return in Forms P9D and P11D.

518. ITEPA does not express the deductions corresponding to those listed above as coming from the particular earnings related to the benefit concerned. Instead, section 361 of ITEPA provides:

A deduction from a person’s earnings is allowed under the following provisions of this Chapter where—

(a) the earnings include an amount treated as earnings under—

(i) Chapter 4 of Part 3 (taxable benefits: vouchers and credit tokens),

(ii) Chapter 5 of Part 3 (taxable benefits: living accommodation), or

(iii) Chapter 10 of Part 3 (taxable benefits: residual liability to charge), and

(b) an amount in respect of the benefit in question would be deductible under Chapter 2 or 5 of this Part if the person had incurred and paid it.

519. These “ITEPA deductions” are clearly given *after* the employee’s taxable earnings have been calculated. They are not given in arriving at an amount of earnings for each of the benefits concerned. Regulation 46(6)(a)(ii) of SI 1993/744 is therefore no longer needed and has not been rewritten in this regulation.

520. The rules in regulation 46(5) and (6) of SI 1993/744 about the earnings figures to go on a P9D/P11D apply to amounts required in relation to “relevant sections”. These are defined in regulation 46(1)(d) as:

sections 141, 142, 143, 144A, 145, 146 and 154 to 165 of the Taxes Act

521. The discussion in the preceding paragraphs about the way in which ICTA gave deductions in arriving at earnings associated with particular benefits gives a reason for singling out amounts relating to these “relevant sections”. And that discussion explains why that reason disappears as a result of ITEPA.

522. *Paragraph (2)* instead requires the employer to have regard to adjustments required under Part 3 of ITEPA so far as the information to make the adjustments is available to the employer.

523. Paragraph (2) thus covers the ground in regulation 46(6) of SI 1993/744. But paragraph (2) also allows the amounts in a P9D/P11D to take account of new material in ITEPA. Specifically any adjustment required under section 64 of ITEPA is covered (see change 15 in Annex 1 to the explanatory notes to ITEPA). The adjustment under section 64 ensures there is no double charge to tax as a result of the interaction between “earnings” (in the sense of Chapter 1 of Part 3 of ITEPA) and amounts “treated as earnings” (under the benefits code in Part 3 of ITEPA).

Regulation 89: Annual return of other earnings: exclusion for notional payments

524. This regulation makes an exception from Forms P9D and P11D for notional payments. It is based on regulation 46(7) of SI 1993/744.

525. Notional payments will in most cases be required to be included in a return under regulation 73 or regulation 74, because they are treated as payments of PAYE income (and hence as relevant payments). So notional payments are excluded from the P11D/P9D return.

Regulation 90: Quarterly return if a car becomes available or unavailable (Form P46 (Car))

526. This regulation requires an employer to return details of changes in cars giving rise to taxable benefits. Those details allow the employee’s code to be adjusted so that PAYE has a better chance of collecting the “right” amount of tax. This regulation is based on regulation 46A of SI 1993/744.

527. Regulation 46A(2) of SI 1993/744 consistently refers to “a car”. That arguably makes it ambiguous as to whether the car(s) in regulation 46A(2)(b) is (are) the same car as the one in regulation 46A(2)(a); and, if not, what relationship exists between the cars mentioned in (a) and (b) respectively. *Paragraph (1)(b)* of this regulation refers to “the car” after the first mention of “a car” in paragraph (1)(a). That makes it clearer that the car in question is the one in relation to which a taxable benefit arises.

528. Regulation 46A(2)(b)(iii) of SI 1993/744 gives as one of the events triggering a return:

where a car is available *to an employee, or to others being members of his family or household, by reason of the employee’s employment*, the employee becomes a relevant employee. (*emphasis added*)

529. The condition in the emphasised words is not needed as it must be met for the benefit to be taxable as the employee’s earnings. Those words are omitted from *paragraph (1)(b)(iii)*.

530. This regulation omits the reference in regulation 46A(1)(a) of SI 1993/744 to “each relevant employee”. That responds to a suggestion that those words arguably required a quarterly return in relation to all employees, whether or not they have the benefit of a car.

Regulation 91: Termination awards: information to be provided

531. This regulation requires employers and former employers to give the Inland Revenue information about a termination award which includes benefits (other than payments) in cases where the award may give rise to taxable amounts under Chapter 3 of Part 6 of ITEPA. It is based on regulation 46ZA(1) to (4) and (10) to (12) of SI 1993/744.

532. Regulation 46ZA(3)(a)(ii) of SI 1993/744 is omitted. It prevented certain deductions being made in arriving at the figures to be returned under regulation 46ZA of SI 1993/744. An equivalent rule is not needed as ITEPA gives these deductions at a later stage than the figures to be reported under this regulation (See paragraph 519).

533. This regulation omits the words “in respect of each employee or former employee” in regulation 46ZA(1) of SI 1993/744. That responds to a suggestion that those words arguably required nil returns for employees who had received no termination award in a year.

Regulation 92: Termination awards: return if award changes

534. This regulation requires a return in certain cases where one was not previously required under regulation 91. Those cases are where there are changes to the award and a return would have been required if the changes had been part of the original award. A return is also required under this regulation if material changes are made to an award. This regulation is based on regulation 46ZA(5), (6), (9) and (10) of SI 1993/744 with minor changes.

535. Regulation 46ZA(5)(a) and (b) of SI 1993/744 refer to particular dates:

(a) information has not been furnished by the employer or former employer under paragraph (1) by the date referred to in that paragraph solely because either...

(b) at some time after that date either...

536. The date referred to appears to be 6 July after the end of the tax year. This leaves it unclear whether:

- the award should be monitored up to 6 July of the following year to see if a return is required under regulation 91(1) by that 6 July: which could be onerous for employers as they might have, at the extreme, no time between changing an award and reporting the information to the Inland Revenue;
- changes in an award are ignored if they occur from 6 April to 6 July following the tax year in which the award was made: that would be illogical; or
- any changes to an award which were made in a tax year must (if this regulation requires) be reported by 6 July in the following tax year.

537. *Paragraph (1)(b)* clarifies the position. It comes down in favour of the third bullet in paragraph 536. Changes in an award are taken into account by this regulation where they are made in a subsequent year - there is no exclusion solely for changes from 6 April to 6 July of the tax year following that in which the award is made.

538. This is a change (*Change 79*) in the law only to the extent it removes scope for arguments about the relevant date but is not expected to change practice. The circumstances in which it could apply are unusual and the change relates to a reporting obligation rather than the taxability of an award.

539. Regulation 46ZA(5)(b)(ii) of SI 1993/744 requires a return to be made even if the £30,000 limit will not be breached. That would be pointless, as there is no PAYE income unless the total is more than £30,000. Looking at it another way, a return would not have been required if the changed circumstances had applied originally. So *paragraph (2)(b)* applies the £30,000 limit in such a case.

540. This is a change (*Change 80*) in the law but not in practice. It removes an obligation to report something that is not taxable.

541. *Paragraph (6)* is new. It meets a request to further clarify that subsequent changes in tax law concerning the valuation of benefits do not, of themselves, trigger a requirement to make a return under this regulation.

Regulation 93: Termination awards: return if more than one employer

542. This regulation deals with the minority of cases where more than one employer would have to give information about an award to an employee or former employee. It identifies which employer or former employer should give the information. It is based on regulation 46ZA(10) of SI 1993/744.

Regulation 94: Employers: information to employees of other earnings (Forms P11D and P9D)

543. This regulation requires an employer to provide to an employee information about the employee's income so employees can make a tax return or check their tax affairs. It is based on regulation 46AA of SI 1993/744.

544. Regulation 46AA of SI 1993/744 contains a significant amount of material relating to the possibility that information is to be given under a Fixed Profit Car Scheme (FPCS) in relation to the employee. There can be no FPCS after 5 April 2002. Most employees who are due statements under regulation 46AA of SI 1993/744 for tax years up to that date will have received them already. The material on FPCS is therefore dealt with separately in paragraphs 16 and 17 of Schedule 1.

Regulation 95: Third parties: information to employees of other earnings

545. This regulation requires third parties to give an employee information about certain payments made by them or benefits they have provided which are not covered

by the information the employer gives the employee. It is based on regulation 46AB of SI 1993/744.

546. *Paragraph (3)(a)* makes clear, in response to comments, that the return relates to items that the employer does not have to report under regulation 85.

Regulation 96: Termination awards: information to employees

547. This regulation requires the employer to give the employee a copy of any information the employer provides to the Inland Revenue under regulations 91(1) or 92(3). It is based on regulation 46ZA(7), (8) and (10) of SI 1993/744.

Chapter 3: PAYE records

Regulation 97: Inspection of employer's PAYE records

548. This regulation allows the Inland Revenue to inspect an employer's PAYE records. It is based on regulation 55(1) to (7) and (12) of SI 1993/744 and regulation 13(8) of SI 1994/1212 with minor changes.

549. Where agreement cannot be reached on the place at which PAYE records are to be inspected, regulation 55(3)(b) of SI 1993/744 provides a default location. That default location is the place at which the records in regulation 55(2)(a) of SI 1993/744 are normally kept (if that is in the United Kingdom). That does not seem to deal satisfactorily with the records mentioned in regulation 55(2)(aa) of SI 1993/744 which might be kept somewhere else in the United Kingdom.

550. This regulation provides that in such a case the records mentioned in regulation 55(2)(aa) of SI 1993/744 should also be inspected at the place in the United Kingdom at which they are normally kept. This change (*Change 81*) in *paragraph (3)(a)* is a change in the law but it is thought to have no effect in practice.

551. *Paragraph (5)(b)* includes the change (*Change 71*) to make explicit when the period for the Inland Revenue to deliver copies starts to run. See paragraph 471 on page 85.

Part 5: Employers

Overview

552. This Part provides for separate PAYE schemes in some particular circumstances. It also provides for the death of a person operating PAYE and for continuity on succession to a business.

553. *Regulations 98* and *99* allow employers to elect to operate more than one PAYE scheme in relation to their employees and provide against improper use of such elections.

554. *Regulation 100* provides for a PAYE scheme to be operated if there is an organised arrangement for sharing tips.

555. *Regulation 101* sets out who is responsible for fulfilling PAYE obligations when an employer dies.

556. *Regulations 102 to 104* provide continuity when a business changes hands.

Background

557. The history of the regulations on which this Part is based was set out in the second and seventh progress reports on the PAYE Regulations to the project's Consultative and Steering Committees in April 2002 and January 2003. They are available on the internet at www.inlandrevenue.gov.uk or from the project.

558. Regulations 98 and 100 are based on Part 2 of SI 1993/744 and regulations 101 to 104 on Chapter IV of Part 6 of SI 1993/744. They are brought together in this Part as they are all special provisions about who is the employer for PAYE purposes.

Regulation 98: Multiple PAYE schemes

559. This regulation allows employers to elect to set up separate PAYE schemes for groups of employees. It is based on regulation 3(1) to (5) of SI 1993/744 with a minor change.

560. The result of an election is often described in practice as the operation of separate "PAYE schemes". But it is thought to be more helpful to readers to continue to provide in this regulation, as in regulation 3 of SI 1993/744, that an employer may elect to be treated as "different employers". This gives a clear indication at the start of the regulation of the effect of an election. But the title of the regulation is different from the title in SI 1993/744 in order to provide a signpost for readers familiar with the concept of "multiple PAYE schemes".

561. The change (*Change 82*) is that *paragraphs (5), (6), (9) and (10)* allow employers a little more flexibility in principle. This cannot affect the tax deducted by employers or the information given to employees and the Inland Revenue. It is unlikely to make any difference in practice.

562. The details are:

- paragraph (5) of this regulation provides that an election must be made "before the beginning of the tax year for which it is to have effect" – allowing an election to be made more than a year ahead. Regulation 3(3) of SI 1993/744 is slightly more restrictive as the election must be made in the year immediately preceding the year for which it is to have effect. Paragraphs (9) and (10) similarly allow revocations to be made at *any* time before the start of the tax year for which they are to have effect (whether or not the election has come into effect); and

- paragraph (6) of this regulation provides flexibility for an employer to elect after the acquisition of a business to allocate the new employees *either* to a separate PAYE scheme *or* to existing schemes. Regulation 3(4) of SI 1993/744 provides that such an election may treat the acquired employees as a group separate from the existing employees of the acquiring employer but it does not provide for the acquired employees to be subdivided into separate PAYE schemes.

563. *Paragraph (4)* has been added to this regulation in response to comments received on an early draft of this regulation. It makes it clear that employees taken on after an election has been made must be allocated to one of the existing groups. This is not a change in the law.

Regulation 99: Multiple PAYE schemes: election made for improper purpose ineffective

564. This regulation provides for an employer's election to operate separate PAYE schemes to be disregarded if it is made for an improper purpose (as defined in the regulation). It is based on regulation 3(6) to (9) of SI 1993/744.

Regulation 100: Tips: special arrangements

565. This regulation provides special rules for organised arrangements for sharing tips, gratuities and service charges among employees. It is based on regulation 5 of SI 1993/744 with a minor change.

566. Section 692 of ITEPA makes provision for PAYE Regulations to deal with some aspects of organised arrangements for sharing tips.

567. *Paragraph (2)* of this regulation is the change. It requires employers to notify the Inland Revenue when they become aware that an organised arrangement for sharing tips is in existence, and to give the name of the person sharing the tips if known. This change (*Change 83*) brings into law the guidance given by the Inland Revenue to employers. Among other things, it allows the Inland Revenue to offer the person who has to operate PAYE timely information and advice on how to do so. *Paragraph (6)* of this regulation provides that this requirement of paragraph (2) apply only in respect of arrangements that come into existence once these Regulations have effect (6 April 2004).

568. *Paragraph (7)* of this regulation defines "tips" and "principal employer". Exceptionally, it duplicates the definitions in section 692(4) of ITEPA. But those definitions are both brief and very unlikely to drift apart by accident.

569. Regulation 5(4A)(b) of SI 1993/744 is omitted as unnecessary. It provides that an employee may be issued with a notice under section 8 of TMA requiring a tax return in cases where there has been a failure to comply with the requirements of the regulation. The Inland Revenue does not need provision in the Regulations in order to issue such a notice.

Regulation 101: Death of employer

570. This regulation deals with the death of an employer. It is based on regulation 79 of SI 1993/744.

571. If an employer dies someone needs to assume responsibility for the PAYE obligations. For example, someone needs to issue Forms P45 to employees, pay over any tax deducted, and make end of year returns. *Paragraph (2)* of this regulation provides for this generally to be the employer's personal representatives.

572. *Paragraph (3)* provides an exception to the general rule when a person (the "agent") paying net PAYE income on behalf of another person ("the principal") dies. It requires the principal to fulfil the requirements of the PAYE Regulations. This is what regulation 79(c) of SI 1993/744 requires if no one succeeds to the agent. However, if an agent dies and another agent succeeds to making the payments regulation 79 appears to make the new agent responsible. The position is not clear though. Regulation 80 might be read as applying to the succession. Then regulation 80(3) of SI 1993/744 would relieve the successor from responsibility for any tax that ought to have been deducted before the change. Responsibility for payments made before the death would then revert to the principal or the personal representatives of the agent.

573. This regulation removes the ambiguity. It provides that on the death of an agent who is succeeded the principal is responsible for complying with the regulations in respect of tax relating to the period before the death. This is a change (*Change 84*) in the law. But it is a change of much less effect than may first appear. Section 687(1) of ITEPA treats an employer as making a payment that is made by an intermediary, unless the intermediary deducts and accounts for the tax. That would give the same result as the proposed change if the agent is an intermediary paying on behalf of an employer. In effect this change extends the same approach to payers other than real employers. It is also in line with the general presumption that a principal will meet the liabilities of an agent (although that presumption can be displaced by the terms of the contract between them). Finally, it is common sense: no sensible agent would take over making payments if they were left open to an unknown tax liability from their deceased predecessor.

Regulation 102: Succession to a business etc

574. This regulation deals with succession to a business (including changes in pension payers). It is based on regulation 80 of SI 1993/744.

575. The material in regulation 80 of SI 1993/744 has been split, and this regulation deals only with general matters. The interaction of this provision and regulation 101 is dealt with in regulation 103. Regulation 104 then deals with the special circumstances (rarely met in practice) of a succession during a trade dispute. The material here has also been re-ordered to make clearer that a succession is not treated as a change for the purposes of PAYE so:

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

- employees, pensioners and others getting PAYE income do not get Forms P45 (which they would then have to hand in to the “new employer”); and
- the new employer inherits the PAYE scheme without needing to deal with Forms P45 or P46, or to prepare new deductions working sheets; and makes end of year returns for the year as a whole.

576. Regulation 80(1)(a) of SI 1993/744 applies if there is a change in the employer from whom an employee receives:

emoluments in respect of his employment in any trade, business, concern or undertaking, or in connection with any property, or...

577. *Paragraph (1)* of this regulation refers simply to “employment in the same business”. The term “business” includes property businesses, and is defined in paragraph (9).

578. *Paragraphs (6) and (7)* are based on regulation 80(3) but also make clear that:

- a person who makes a payment before succeeding to a business cannot then deny responsibility for PAYE on that payment, and
- an “old employer” who makes a payment to an employee after the change remains liable for deducting tax from that payment.

579. This is a change in the law (*Change 86*) in as much as it prevents the person who made the payment arguing they are not responsible for the tax. The chances of such an argument succeeding are thought to be extremely remote.

580. Regulation 13 of SI 1994/1212 applies parts of SI 1993/744 for the purposes of notional payments but not Part 6, which was omitted, possibly through oversight. That leaves with the old employer the obligation to deduct or account for tax on a notional payment made before the succession. That makes sense. But in the absence of any further provision regulation 102 might be read as making the new employer liable to deduct from payments made after the change any tax the old employer could not deduct. *Paragraph (7)* of regulation 102 prevents that and maintains the current law. (The proviso “unless those notional payments were paid by the new employer” caters for the exceptional circumstance where the new employer is the person who made the notional payment.) It also incorporates *Change 35* so that it deals with tax to be deducted or accounted for, as well as tax actually deducted or accounted for. See paragraphs 391 to 396 on page 73.

581. A similar point arises on notional payments in relation to regulation 79 of SI 1993/744. If an employer makes a notional payment and then dies, regulation 13 of SI 1994/1212 does not apply regulation 79 of SI 1993/744 to require the personal representatives to account for any tax not deducted. These Regulations require the

personal representatives to do so (as they would be required to deduct tax from actual payments in the income tax period). This is a change in the law (*Change 87*) in as much as it removes the possibility for personal representatives to argue that no one is responsible for tax which should have been accounted for in respect of notional payments. It is expected to have no practical effect as the point has not arisen in practice so far as the Inland Revenue know.

Regulation 103: Death and succession

582. This regulation resolves conflicts between regulations 101 and 102 where the same person is both the new employer for the purposes of regulation 102 and the personal representative or principal for the purposes of regulation 101. It is new.

583. These circumstances rarely arise and have not caused difficulty in practice. But both regulations 79 and 80 of SI 1993/744 would apply, with apparently conflicting provisions as to the successor's responsibilities. The conflicts are, however, removed once it is appreciated that the same persons can be *both* the personal representatives *and* the "new employer". This regulation makes this clear. Then, for example:

- as personal representatives of the dead employer they are liable to do all that the employer would have done, including paying over tax deducted before the death;
- as the "new employer" they are responsible only for payments made after they take over the business, and for such things as end of year returns; and
- they do not need to issue (wearing their personal representatives' hat) Forms P45 to employees or (wearing their new employer hat) go through the Form P46 procedures because there is a succession to the business.

584. This is a change in the law (*Change 85*) only to the extent that it prevents someone arguing for a different construction of the combined effect of regulations 79 and 80 of SI 1993/74. It has no effect on employees.

Regulation 104: Succession to a business: trade disputes

585. This regulation deals with succession during a trade dispute. It is based on regulation 80(4) of SI 1993/744.

586. This material has been separated from the rest of regulation 80 of SI 1993/744 for clarity as it very rarely applies in practice. It deals with the effect of a succession on parts of other regulations that apply when there is a trade dispute.

587. *Paragraph (2)* provides for the former employer to comply with the Regulations as if the trade dispute had ended when the new employer takes over. That is, the former employer must pay over to the Inland Revenue any tax held back and

not repaid during the strike, and make any additional return required in cases of a trade dispute in respect of such tax.

588. *Paragraph (3)* requires the employer after the succession to repay at the end of the trade dispute, defined to include, if earlier, one of the events listed in regulation 64(10), any PAYE repayments withheld by the former employer. The new employer is entitled to recover these payments from the Inland Revenue (see *paragraph (4)*).

Part 6: PAYE settlement agreements

Overview

589. Chapter 5 of Part 11 of ITEPA gives the Board of Inland Revenue the power to make regulations about PAYE settlement agreements (PSAs). This Part provides for:

- the limited range of earnings that can be covered by a PSA and the PSA's effect on employees and on the employer (*regulations 105 to 107*);
- calculating amounts payable to the Inland Revenue under a PSA, recovering those amounts and resolving disputes (*regulations 108 to 110*);
- the form, commencement, variation and cancellation of a PSA (*regulations 111 to 114*);
- interest on amounts paid late or overpaid (*regulations 115 and 116*); and
- the maintenance of records by an employer and their inspection (*regulation 117*).

Background

590. An earlier draft of this Part was included in the fourth progress report made to the project's Consultative and Steering Committees in October 2002. That included more details of the history of some of the regulations in Chapter 5 of Part 6 of SI 1993/744 on which this Part is based. It is available from the project or from www.inlandrevenue.gov.uk.

591. PSAs offer administrative savings to employers, employees and the Inland Revenue by allowing:

- an employer to pay "grossed-up" tax on a limited range of earnings of employees; and
- that limited range of earnings to be excluded from the employees' income for income tax purposes.

592. PAYE settlement agreements are commonly referred to as "PSAs". This Part reflects that practice. Regulation 80L of SI 1993/744 is omitted, as it is an

administrative matter for the Inland Revenue and does not need to be dealt with in these Regulations.

593. Section 206A of ICTA provided for the Board to enter into PSAs. SI 1993/744 accordingly refers to agreements by the Board. But entering into a PSA is one of the many matters which in practice is devolved. Section 704 of ITEPA now provides for agreements to be with the Inland Revenue. These Regulations reflect that change made by ITEPA. It has little if any effect: see paragraph 62 on page 15.

Regulation 105: Inland Revenue and employer may make PSA

594. This regulation allows the Inland Revenue and an employer to make an agreement for a tax year in relation to “qualifying general earnings”. It is based on regulation 80A(1) and (2) of SI 1993/744.

595. The PSA’s effect is that the employer’s obligations, in relation to qualifying general earnings covered by it, are regulated by the terms of the PSA and this Part rather than by the other Parts of the PAYE Regulations.

596. Regulation 80A(1) of SI 1993/744 refers to particular Parts of SI 1993/744 that are excluded by a PSA, in relation to the employer being accountable for income tax. *Paragraph (2)* refers more simply to “the rest of these Regulations”.

Regulation 106: Qualifying general earnings

597. This regulation sets out what are “qualifying general earnings”; only such earnings can be included in a PSA. It is based on regulation 80A(3) and (4) of SI 1993/744.

598. Condition A in this regulation is based on regulation 80A(3)(a) of SI 1993/744 but it is less detailed. The various ICTA sections referred to in regulation 80A(3)(a) of SI 1993/744 are replaced by ITEPA. Reproducing the various corresponding references in ITEPA would produce a detailed listing that is unlikely to be informative or helpful to employers interested in entering into a PSA. So Condition A is based instead on the description of general earnings eligible for inclusion in a PSA according to section 705(b)(i) and (ii) of ITEPA.

Regulation 107: Effect of PSA

599. This regulation deals with the effect of a PSA. It is based on regulations 80E and 80A(5) of SI 1993/744.

600. This regulation provides:

- for items covered by a PSA to be excluded from income of the employees (*paragraph (1)*);
- that employees cannot get any relief for sums that the employer has to pay in relation to a PSA (*paragraph (4)*);

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

- for employees to be relieved of reporting requirements in relation to items covered by a PSA (*paragraph (5)*); and
- for employers to be relieved of certain reporting requirements in relation to items covered by a PSA (*paragraph (7)*).

601. There are essentially three propositions in regulation 80E(1) of SI 1993/744. They are broadly, in order:

- that an employee cannot have a deduction for an “expense” that is represented by earnings covered by a PSA (“first proposition”);
- that general earnings covered by a PSA are not included in the employee’s income for income tax purposes (“second proposition”); and
- that the exclusion of general earnings from an employee’s income does not affect the employer’s liability to make payments under a PSA (“third proposition”).

602. Of these propositions the most significant is the second proposition. That proposition is reflected in *paragraph (1)*. The third proposition is reflected separately in *paragraph (2)*.

603. The first proposition reads:

Emoluments of an employee included in a PAYE settlement agreement shall be treated as excluded from his income for the purposes of section 198 of the Taxes Act (relief for necessary expenses) ...

604. It *put beyond doubt* that two deductions were not allowed in relation to items included in a PSA. First, a deduction by the employer under regulation 80F of SI 1993/744. Second, a deduction by the employee under section 198 of ICTA. The words “put beyond doubt” are used in the first sentence because the second proposition in regulation 80E(1) arguably made the first proposition unnecessary.

605. The second proposition ensured that if, say, the reimbursement of an expense were within a PSA it was impossible for the employee to say that the expense had been defrayed out of emoluments of the employment. This in turn prevented a section 198 of ICTA deduction for that expense.

606. ITEPA uses different concepts from section 198 of ICTA for there to be a deductible expense, but the effect is the same. In particular ITEPA replaced with more appropriate conditions the requirement in section 198 of ICTA that an expense had to be defrayed out of the emoluments.

607. So section 334(2) of ITEPA ensures that a deduction will not be given for expenses which are met out of reimbursements, or other payments, that are not

included in the employee's earnings. And this also applies for benefits because sections 361 to 365 of ITEPA require the value of the benefit to be included in earnings before a deduction will be given in relation to the benefit.

608. ITEPA therefore prevents the employee from getting a deduction for items included in a PSA because expenses and benefits covered by a PSA will be excluded from the employee's earnings by paragraph (1) of this regulation. That makes it unnecessary to reproduce the first proposition.

Regulation 108: Calculation of tax payable under PSA

609. This regulation deals with factors that a PSA must take into account in the calculation of sums payable by an employer. It is based on regulation 80F of SI 1993/744 with a minor change.

610. Regulation 80F(3) and (4) of SI 1993/744 can be confusing. At first sight it may appear that regulation 80F(4) of SI 1993/744 is providing for "grossing-up" (calculating the tax due having regard to the net sum or benefit retained by the employee). But closer examination reveals that it provides only that the calculation in regulation 80F(3) of SI 1993/744 is to have regard to the marginal tax rates of the employees within the PSA. But in practice the Inland Revenue will not enter into a proposed agreement that does not provide for "grossing-up".

611. *Paragraphs (1)(b) and (3)(b)* make the requirement for "grossing-up" explicit. This is a change (*Change 88*) only to the extent that it prevents anyone contending that PSAs do not have to include "grossing-up". It has no practical effect.

Regulation 109: Payment of tax and recovery proceedings

612. This regulation gives the date by which sums due under a PSA must be paid and applies procedures in Part 6 of TMA (collection and recovery) where formal action is needed to recover the sums due. It is based on regulation 80G of SI 1993/744 with a minor change.

613. *Paragraph (3)* includes the change (*Change 77*) explicitly restricting recovery procedures to Part 6 of TMA and which is also made in regulation 84 (see paragraph 501 on page 89).

Regulation 110: Formal determination of tax payable by the employer

614. This regulation allows the Inland Revenue to determine an amount and notify it, where it appears that an employer has not paid all the tax due under a PSA. And it applies procedures in TMA by which the employer can challenge such a determination. It is based on regulation 80H of SI 1993/744.

Regulation 111: Form of PSA

615. This regulation deals with the form of a PSA and certain matters that it must cover. It is based on regulation 80B of SI 1993/744.

Regulation 112: Commencement of PSA

616. This regulation gives the latest date by which a PSA for a tax year must be entered into and prevents a PSA from covering certain earnings. It is based on regulation 80C of SI 1993/744.

617. The earnings that a PSA may not cover are those from which tax was deductible before the PSA was entered into or those that have been reflected in an employee's code.

Regulation 113: Variation of PSA

618. This regulation deals with variations of PSAs and the latest time at which variations can be made. It is based on regulation 80D of SI 1993/744.

Regulation 114: Cancellation of PSA

619. This regulation sets out the circumstances in which the Inland Revenue can cancel a PSA and some of the effects of such a cancellation. It is based on regulation 80M of SI 1993/744.

620. Regulation 80M(3) of SI 1993/744 is explicit about the fact that the employer cannot benefit from a PSA in relation to matters occurring after receipt of a notice cancelling the PSA. It is implicit that an employee also cannot benefit in relation to those same matters. That follows first, from considering what PSAs try to achieve and second, from there being no provision for the employer to isolate earnings that have to be included on returns P45, P60, P14 and P11D (being earnings that would otherwise have been excluded by the cancelled PSA).

621. *Paragraph (4)* prevents this Part from applying to general earnings paid or provided after a notice of cancellation of the PSA. That covers more clearly the position of both the employer and the employee.

Regulation 115: Interest on unpaid tax

622. This regulation charges interest on sums payable by an employer but which are not paid by 19 October following the tax year to which the PSA relates. It is based on regulation 80J(1), (2), (5), (7) and (8) of SI 1993/744.

623. It seems clear that regulation 80H of SI 1993/744 (formal determination) is about the process by which the aggregate amount payable under regulation 80G(1) of SI 1993/744 can be determined, where the Inland Revenue and the employer cannot agree that amount. As such regulation 80J(2) of SI 1993/744 is unnecessary and unhelpful; unhelpful because readers may be tempted to waste time trying to rationalise its existence.

624. *Paragraph (1)* of this regulation therefore takes a slightly different approach. It provides that interest is due where amounts payable under this Part in relation to a PSA remain unpaid at 20 October following the tax year to which the PSA relates.

625. An alternative approach would have been to drop regulation 80J(2) and reproduce regulation 80J(1) of SI 1993/744, essentially unchanged. That ought to work. But it might in the future tempt someone to advance the argument that dropping regulation 80J(2) of SI 1993/744 was a mistake that had created an anomaly.

Regulation 116: Interest on overpaid tax

626. This regulation provides for the Inland Revenue to pay interest to the employer on certain overpayments that the employer makes in relation to sums due under a PSA. It is based on regulation 80K(1) and (2) of SI 1993/744.

Regulation 117: Inspection of PSA records

627. This regulation deals with the retention of records relating to a PSA, the period for which they must be retained, the inspection of those records and matters related to copying or removing such records. It is based on regulation 80N of SI 1993/744 with minor changes.

628. This regulation refers to an “authorised officer” to bring it into closer alignment with regulation 97. But regulation 80N of SI 1993/744, on which this regulation is based, goes wider with its reference to an “inspector or other officer”. In principle this is a change (*Change 89*) which restricts who can inspect PSA records. But it has no effect in practice because it is only authorised officers who carry out inspections of PSA records.

629. *Paragraph (5)* includes the change (*Change 71*) to make explicit when the 7-day period begins, for the officer to provide a copy. See paragraph 471 on page 85.

Part 7: Special cases

Overview

630. This Part provides for:

- simpler systems of deduction of tax at the basic rate from payments:
 - of certain allowances to councillors (*Chapter 1*);
 - to members of the reserve forces (*Chapter 2*); and
 - by holiday pay funds (*Chapter 3*).
- direct collection from employees (who operate a modified form of PAYE on payments they receive) and other special arrangements (*Chapter 4*).

Background

631. The regulations in this Part are based on Part 6 and Part 8 of SI 1993/744 with minor changes to bring them into line with practice. An earlier draft of Chapters 1 to 3 was in the seventh progress report made in January 2003; an earlier draft of Chapter 4 was in the sixth progress report made in December 2002. Both are available on the internet at www.inlandrevenue.gov.uk or from the project.

Chapter 1: Councillors' allowances

Overview

632. This Chapter gives councillors the option of having certain allowances paid to them under deduction of tax at the basic rate rather than under the normal PAYE process:

- *regulation 118* defines the allowances in question and other terms used in the Chapter;
- *regulation 119* provides the option for councillors to elect for deduction at the basic rate, and for the Inland Revenue to instruct councils accordingly;
- *regulation 120* requires a council paying allowances under this arrangement to keep records; and
- *regulation 121* treats the election for tax to be deducted at the basic rate as the issue of a basic rate code so as to apply other regulations which turn on there being a code – for example, the issue of Forms P45 and P60.

Material omitted

633. This Chapter omits regulation 58 of SI 1993/744 as unnecessary. That regulation applies Part 5 for the purposes of tax deducted from councillors' allowances under the special provisions. That was necessary in the original regulations (SI 1974/340). They were free-standing regulations made after the 1973 consolidation of the Employment Regulations (SI 1973/334). It was not necessary when the regulations were consolidated in 1993. But the fact that it had become unnecessary was overlooked in 1993.

Regulation 118: Interpretation of Chapter 1

634. This regulation defines terms used in this Chapter. It is based on regulation 56 of SI 1993/744 with a minor change.

635. Regulation 56 of SI 1993/744 opens with a proviso that the definitions apply "unless the context otherwise requires". This regulation omits this as unnecessary. There is nowhere in this Chapter where the words defined require a different meaning.

636. *Paragraph (1)* includes a change in the law to bring the meaning of "allowances" into line with practice. Chapter 1 of Part 6 of SI 1993/744 applies only to "attendance allowance". But since the provisions were introduced in 1974 local government legislation has provided for the payment of other allowances. This regulation reflects that. The heading of the Chapter now refers only to "Councillors' Allowances". The definition of "allowances" covers also the basic, special responsibility, conference, and care allowances paid to some councillors. Inland Revenue practice is to allow councillors to opt for taxation at the basic rate on all these allowances.

637. The references to the local government provisions under which the allowances are paid have been updated to reflect these other allowances to which deduction at the basic rate can apply. This is a change in the law (*Change 90*), but not in practice. It cannot adversely affect a councillor as any councillor can choose not to make use of the option offered by this Chapter. But it is administratively simpler at the point of payment if the option for basic rate deduction applies to the different allowances a councillor may receive in one sum.

638. Some of those local government provisions include allowances for travelling and subsistence and other expenses as well as an attendance allowance. While it makes sense to bring in the other allowances which are clearly taxable, it would be misleading to suggest that tax must in practice be deducted at the basic rate from expenses payments. So expenses allowances are excluded from the meaning of allowances in Part 7 by restricting the application of the Chapter to those allowances that are paid under the various local government provisions listed in the definition of “allowances”. Thus the definition excludes section 100(1)(b) and (d) of the Local Government Act 2000 which provide for the payment of expenses, but includes section 100(1)(a) and (c) which provide the vires to make regulations for paying allowances to parish councillors and members of other relevant authorities:

100. - (1) The Secretary of State may by regulations make provision with respect to-

(a) allowances payable to members of a parish council,

(b) travelling and subsistence allowances payable to members of such relevant authorities as may be prescribed,

(c) allowances payable to members of such relevant authorities as may be prescribed for attending conferences or meetings,

(d) the reimbursement of expenses incurred by members of such relevant authorities as may be prescribed.

639. Where the local government legislation (for example, section 47(1) of the Local Government (Scotland) Act 1973) provides for both attendance allowance and expenses the definition restricts these regulations to the attendance element of the payment. Expenses payments remain outside the scope of Part 7 and the rest of these Regulations apply to them as to any other relevant payment.

640. *Paragraph (1)* also defines “local council” where regulation 56 of SI 1993/744 defines “employer”. This reminds readers of this Chapter that it is dealing only with payments made by one of the specified bodies.

641. *Paragraph (2)* deals separately with definitions that are only used for the purposes of the definitions in *paragraph (1)* to make it easier for readers to see the concepts they will need later in the Chapter.

Regulation 119: Councillor’s option to have tax deducted at basic rate

642. This regulation provides that a local councillor can elect to have basic rate tax deducted from attendance and other allowances. It is based on regulation 57(1) to (5) of SI 1993/744 with a minor change.

643. Regulation 57(2) of SI 1993/744 requires councillors to be “aggrieved” by their PAYE codes in order for them to opt for deduction at basic rate from their allowances. This requirement is omitted as unnecessary as part of the change (*Change 14*) which omits the similar requirement from regulation 18. See paragraph 165 on page 34.

644. *Paragraph (6)* refers to the sections of ITEPA which provide for deductions from earnings for expenses. Regulation 57(5) of SI 1993/744 refers only to where “the councillor may be obliged to expend money wholly, exclusively and necessarily in the performance of his duties as a councillor”, leaving readers to make their own link to the legislation for expenses.

Regulation 120: Particulars that local council must record

645. This regulation requires a council to keep records of allowances paid to councillors who have opted to have tax deducted at the basic rate. It is based on regulation 57(6) and (7) of SI 1993/744.

646. These record-keeping provisions have been separated from regulation 119 as they deal with the consequences for the council of the councillor’s election.

647. *Paragraph (3)* requires the council to record the councillor’s name and national insurance number in the deductions working sheet. This is part of *Change 38* (see paragraphs 302 to 304 on page 59). It brings the regulation into line with regulation 66. It is also believed to be the practice of at least some councils to include this, although it is not known if it is the practice of all councils paying allowances under this scheme.

Regulation 121: Regulations apply as if basic rate option were issue of code

648. This regulation provides for the Regulations to apply where a councillor elects for tax to be deducted at the basic rate as if the Inland Revenue had issued a basic rate code. It is new.

649. Chapter 1 of Part 6 of SI 1993/744 requires deduction of tax at the basic rate but does not deem the Inland Revenue to have determined a code. This means that the council is not required under regulation 23 of SI 1993/744 to issue a Form P45 when a councillor ceases to hold office. In practice however the Inland Revenue guidance to councils envisages the issue of Forms P45 and without them councillors might need to seek the information in order to complete tax returns and/or claim repayments of tax. The lack of a code also causes some theoretical difficulty for councils in complying with other regulations which require the code to be shown on, for example, Forms P60 (regulation 39 of SI 1993/744) and P14 (regulation 43 of SI 1993/744). This

change (*Change 91*) overcomes these difficulties. The same issue arises with regard to reserve forces (in regulation 123) and to payments by holiday pay funds (in regulation 135). The same change is made in those regulations.

650. The new term “basic rate code” is defined in regulation 7 for the regulations as a whole. (See (*Change 4*) in paragraph 100 on page 21.)

Chapter 2: Reserve forces

Overview

651. This Chapter provides a simplified form of PAYE for payments to members of the reserve forces. Payments are made with basic rate tax deducted or with no tax deducted.

652. *Regulation 122* defines the payments to which this scheme applies and other terms used in this Chapter.

653. *Regulation 123* provides that the normal provisions for deductions, Forms P45, and P46 and so on do not apply.

654. *Regulations 124 and 125* require basic rate tax to be deducted from payments unless the Inland Revenue determine the pay will not be liable to tax.

655. *Regulations 126 to 128* provide for reservists to object to deduction of tax at the basic rate, for appeals to the Commissioners, and for the Inland Revenue to amend its determination if the reservist’s circumstances change.

656. *Regulation 129* gives reservists the right to a certificate of pay and tax deducted.

657. *Regulation 130* provides for repayments to reservists by the Inland Revenue during a tax year.

658. *Regulation 131* requires a deductions working sheet for each reservist.

659. *Regulation 132* provides for each reservist to get a certificate of tax deducted after the end of the tax year. This brings the regulation into line with Ministry of Defence (“the Ministry”) practice.

660. *Regulation 133* makes it clear none of this affects the operation of PAYE on a reservist’s other PAYE income.

Regulation 122: Interpretation of Chapter 2

661. This regulation sets out the forces to which this Chapter applies and provides the definitions of terms used in the Chapter. It is based on regulation 59 of SI 1993/744 with a minor change.

662. *Paragraph (2)* omits references to the Merchant Navy Reserve as it was disbanded in 2000. It also omits references to forces where reservists are paid only when serving full-time, and under normal PAYE arrangements: the Royal Fleet Reserve, the Army Reserve, and the Air Force Reserve (except the University Air Squadron). Applying these Regulations to them would very probably result in those reservists paying too much or too little tax through PAYE – in contrast to the result for “normal” reservists. This is a change in the law (*Change 92*) to bring it into line with practice.

Regulation 123: Application of other Parts

663. This regulation disapplies Parts 2 and 3 of these Regulations for reserve pay and applies the rest of the Regulations as if a basic rate code had been issued. It is based on regulation 60 of SI 1993/744 with a minor change. The change (*Change 91*) is to deem the basic rate code as issued. (See paragraph 649 on page 110.) It also makes regulation 69 of SI 1993/744 unnecessary as its modifications to the application of Parts 5 and 8 of those Regulations were only required to cater for the absence of a code.

Regulation 124: Deduction of tax

664. This regulation requires the Ministry to deduct income tax at the basic rate from payments of reserve pay, unless the Inland Revenue tell it that no tax is to be deducted. It is based on regulation 61 of SI 1993/744.

665. Regulation 61(3) of SI 1993/744 is omitted as unnecessary. It provides that regulation 8 of SI 1993/744 does not apply to a notice from the Inland Revenue not to deduct tax from reserve pay. That may have been on the mistaken view that notices not to deduct tax are nil tax (“NT”) codes. But they are not codes and there is no need to single out for special mention one particular provision which does not apply.

Regulation 125: Determination by Inland Revenue

666. This regulation provides for the Inland Revenue to tell the Ministry to deduct no tax if the reservist will not be liable to income tax on all of the reserve pay. It is based on regulation 62 of SI 1993/744, with a minor change.

667. The purpose of this regulation is to avoid overdeductions of tax from reserve pay. For example, if a reservist has no or little other income it would be manifestly wrong for tax to be deducted at the basic rate. On the other hand it would offer reservists poor service if tax was not deducted from their reserve pay solely because their other income was not PAYE income. They would then end the year owing tax. So regulation 62 of SI 1993/744 provides for the decision on whether or not reserve pay will be liable to tax to be made on the assumption that personal allowances (and other reliefs) are allocated first to other income (whether or not PAYE income).

668. This is in line with the way the original PAYE system was expected to deal with minor sources of other income by allocating allowances to them (“coding out”). This regulation does so on the same basis as regulation 14 (see paragraphs 148 and

149 on page 31). The minor change (*Change 10*) to take account of non-PAYE income includes the same right for reservists to object if they do not want non-PAYE income taken into account.

Regulation 126: Objection against deduction of tax

669. This regulation gives reservists the right to object to deduction of tax at the basic rate and to appeal if they and the Inland Revenue cannot agree. It is based on part of regulation 63 of SI 1993/744, with a minor change.

670. Regulation 63 of SI 1993/744 has been split so that the provisions relating to the conduct of appeals against the Inland Revenue's determination are now in regulations 126 and 127.

671. *Paragraph (1)* omits the requirement that the reservist must feel aggrieved at tax being deducted at the basic rate in order to object. This is part of *Change 14*. See paragraph 165 on page 34 and paragraph 643 on page 110.

672. *Paragraph (3)* spells out that the determination is made using the same assumptions as in regulation 125.

Regulation 127: Appeal to Commissioners

673. This regulation states what the Commissioners should do on appeal. It is based on part of regulation 63 of SI 1993/744 with a minor change.

674. Regulation 63(8) of SI 1993/744 provides that the Commissioners' decision is final, subject to regulation 64. This is omitted as unnecessary as section 46(2) of TMA already provides finality, save as otherwise provided in the Taxes Acts.

675. If the reservist opts for the General Commissioners to hear an appeal *paragraph (4)* provides for it to be heard by the General Commissioners where the reservist lives. It is based on regulation 63(5) and (6) of SI 1993/744, but allows the reservist the right to elect for the appeal to be heard by the Division that is most convenient. This is part of the change (*Change 17*) also made in regulation 18. See paragraph 168 on page 34.

Regulation 129: Certificate of tax deducted

676. This regulation provides for a certificate of payments and tax deducted to be given to the reservist. It is based on regulation 65 of SI 1993/744 with a minor change.

677. The certificate is now required to show the reservist's name and national insurance number (if known). This is part of the change (*Change 38*) to bring forms into line with practice. See paragraphs 302 to 304 on pages 59 and 60.

Regulation 130: Repayment to reservist during the year

678. This regulation deals with in-year repayments of tax to a reservist. It is based on regulation 66 of SI 1993/744 with a minor change.

679. The regulation reflects the non-cumulative nature of the scheme by prohibiting the Ministry from making a repayment.

680. Regulation 66(3) of SI 1993/744 lists the matters that the inspector should have regard to when considering whether a repayment is due, including, in paragraph (3)(c), “his income for the year from all other sources”. Paragraph (3)(d) of this regulation provides explicitly for non-PAYE income to be taken into account unless the reservist objects. This is the same change (*Change 10*) made in regulations 14 (see paragraphs 148 and 149 on page 31) and 125 (see paragraph 668 on page 112) to bring the law into line with practice.

Regulation 131: Particulars that Ministry must record

681. This regulation requires the Ministry to keep records of pay and tax deducted. It is based on regulation 67 of SI 1993/744 with a minor change.

682. In paragraph (2) of this regulation items (a)–(c) have been added to bring it into line with regulation 66(2), and provide the Ministry with the information to enable it to comply with regulation 132. This is part of *Change 38* (see paragraphs 302 to 304 on page 59).

Regulation 132: End of year certificate

683. This regulation requires the Ministry to give the reservist a certificate of tax deducted within 56 days of the year end. It is based on regulation 68 of SI 1993/744 with minor changes in line with those for the Form P60 and other certificates to:

- dispense with the requirement for a form to *show* that it is a substitute authorised by the Board (see paragraph 420 on page 78) (*Change 64*); and
- require the reservist’s name and national insurance number *if known* in the end of year certificate (see paragraphs 301 to 304 on pages 59 and 60) (*Change 38*).

684. The regulation requires the issue of an end of year certificate to everyone who has served as a reservist during the year. Regulation 68 of SI 1993/744 only requires a certificate to be issued to a reservist who is a member of the reserve and auxiliary forces on the last day of the tax year if tax has been deducted from the reserve pay. However, it is already Ministry practice to issue an end of year certificate to anyone who has served as a reservist during the year, whether they are serving at the year end or not. This change (*Change 93*) brings the law into line with that practice.

685. *Paragraph (2)* refers to “1st June” instead of “56 days after the end of the year” for clarity.

Chapter 3: Holiday pay funds

Overview

686. This Chapter provides a simplified form of PAYE for payments made by holiday pay funds. The fund is required to deduct tax at the basic rate.

687. *Regulation 134* defines the payments to which this scheme applies and other terms used in this Chapter.

688. *Regulation 135* provides that the normal provisions for deductions, Forms P45 and P46 and so on, do not apply.

689. *Regulation 136* requires basic rate tax to be deducted from payments.

690. *Regulation 137* requires the fund to give a certificate showing the pay and tax deducted.

691. *Regulation 138* provides for repayments by the Inland Revenue during a tax year.

692. *Regulation 139* requires a deductions working sheet for each recipient.

693. *Regulation 140* makes clear none of this affects the operation of PAYE on a recipient's other PAYE income.

Background

694. These regulations are only concerned with holiday pay funds, not holiday pay in general. The heading of the Chapter makes this clearer.

695. The regulations in this Chapter deal with holiday pay in special holiday pay funds. Such funds are traditionally found in the construction and allied industries, and act as a savings scheme for holidays. The employer puts stamps bought from the scheme on a card, or builds up credits, for each employee. When the time for the holiday comes, the employee cashes in the stamps or credits with the current employer. That employer then reclaims the pay from the fund in return for the stamps or credits. Such payments by employers will be subject to PAYE in the normal way. But the holiday pay fund makes some payments direct to people who are out of work, and is then required to deduct tax at the basic rate.

696. Section 79 of ITEPA makes provision for the Inland Revenue to approve such schemes. A condition of approval is that the Inland Revenue are satisfied tax can be deducted under PAYE. The practical effect of approval is that tax is deducted when the stamps are exchanged instead of when they are received. The regulations in this Chapter deal with this.

Regulation 134: Interpretation of Chapter 3

697. This regulation contains definitions for the purposes of this Chapter. It is based on regulation 71 of SI 1993/744.

698. The proviso that these definitions apply “unless the context otherwise applies,” has been omitted as unnecessary. There is nowhere that the context does require any other meaning.

699. The definitions in regulation 71 of SI1993/744 cater for the fact that holiday pay may be paid either to an employee or to a former employee, or (on that person’s death) to personal representatives. The definitions in this regulation maintain this effect but do so more concisely within the definitions of “fund” and “holiday pay”.

Regulation 135: Application of other Parts

700. This regulation disapplies Parts 2 and 3 of the regulations for payments by holiday pay funds. It is based on regulation 72 of SI 1993/744.

701. Regulation 72(1) of SI 1993/744 leaves the remainder of SI 1993/744 to apply. Regulation 77 of SI 1993/744 then applies Parts 5 and 8 of SI 1993/744 “with any necessary modifications”. This regulation removes the need for modifications by applying the regulations as if the basic rate code had been issued. This is part of the change (*Change 91*) also made in regulations 121 and 123 – see paragraphs 649 and 663 on pages 110 and 112.

Regulation 137: Certificate of tax deducted

702. This regulation provides that a fund, on making a payment of holiday pay, must give the recipient a certificate of tax deducted. It is based on regulation 74 of SI 1993/744.

703. The certificate is now required to show the recipient’s national insurance number (if known). This is part of *Change 38* (see paragraphs 301 to 304 on page 59).

Regulation 138: Repayment to recipient during tax year

704. This regulation provides for in-year tax repayments. It is based on regulation 75 of SI 1993/744 with two minor changes.

705. The provisions for repayments in regulation 75 of SI 1993/744 were introduced when earnings from employment were assessed on what was known as “the earnings basis”. Under this holiday pay could only be earnings of the employee. Income from employment received after death was related back to a period before death, with the personal representatives assessed on it. This was necessarily taken into account in regulation 75 of SI 1993/744. It needed to provide for the case where the personal representatives were in receipt of holiday pay but the repayment due depended on the tax paid by the deceased. So, regulation 75(3)(a) and (c) refer not only to the pay and reliefs of the recipient, but also to those of the individual in

respect of whose right the personal representatives, as recipient, are paid, or are entitled (to reliefs). In other words regulation 75 was designed to deal with :

- repayments to the employee, if the employee was the recipient, based on the tax position of the employee; or
- repayments to the personal representatives, if the personal representatives were the recipient, *also* based on the tax position of the employee.

706. Under the receipts basis earnings are not assessable to tax until they are received, and, if received after the death of the employee, section 13(4) of ITEPA provides that the tax liability is that of the *personal representatives*, and this means that those earnings are assessed on them for the year of receipt, i.e. at basic rate and without regard to personal reliefs.

707. This allows this regulation to provide more simply for repayments. This is a change (*Change 94*) to the extent it omits unnecessary provisions now that the earnings basis is no longer reflected in these regulations.

708. The second change is to provide explicitly for all income to be taken into account in considering whether a repayment is due, including non-PAYE income, “unless the recipient objects”. This is part of the change (*Change 10*) in the law, but not in practice, made in relation to regulation 130 and is discussed in more detail in the commentary on regulation 14 (see paragraphs 148 and 149 on page 31).

Regulation 139: Particulars that fund must record

709. This regulation requires a fund to record certain details on a deductions working sheet. It is based on regulation 76 of SI 1993/744.

710. Regulation 76 requires a modified deductions working sheet. This regulation requires that this should show the recipient’s national insurance number, if known. This is part of *Change 38* (see paragraphs 301 to 304 on page 59).

Chapter 4: Direct collection and special arrangements

Overview

711. This Chapter deals with arrangements for collecting tax which do not involve the employer deducting tax by reference to tax tables.

Regulation 141: Direct collection and special arrangements

712. This regulation allows the Inland Revenue to make arrangements to collect tax on PAYE income which do not involve the employer deducting tax by reference to tax tables. It is based on regulation 102 of SI 1993/744 with a minor change.

713. The cases where the Inland Revenue may do this are first, casual employment and second, where the Inland Revenue are satisfied that it is impractical for the employer to deduct tax by reference to tax tables.

714. *Paragraph (2)* is new and makes explicit that an employer is not compelled to operate whatever special arrangement the Inland Revenue think appropriate to deal with such cases. This is a change (*Change 95*) in the law only to the extent that it removes any possibility of the Inland Revenue seeking to compel an employer to operate a special arrangement.

Regulation 142: Direct collection: issue of deductions working sheet

715. This regulation provides for a deductions working sheet to be issued to an employee so that the employee can operate a modified form of PAYE on the employee's PAYE income. It is based on regulation 104(1) of SI 1993/744 with a minor change.

716. *Paragraph (2)* is new and provides that an employee is not compelled to operate direct collection. This is in line with the practice set out at paragraph 1241 of the Inland Revenue's Employment Procedures Manual. An employee who does not want to operate direct collection would be dealt with under Self Assessment. This is a change (*Change 96*) in the law only to the extent that it removes any possibility of the Inland Revenue seeking in future to compel an employee to operate direct collection.

717. With the next five regulations, this regulation provides that the employee must make quarterly income tax payments, and the necessary returns, to the Inland Revenue much like any small employer. All six regulations are based on regulation 104 of SI 1993/744 but with some further changes. The reason for the changes is set out in the following paragraphs.

The 1992 changes

718. Regulation 13 of SI 1992/3180 made changes ("the 1992 changes") to regulation 51 of SI 1973/344 in connection with the introduction of K codes. Regulation 51 of SI 1973/344 was consolidated, in a reorganised form, as regulation 104 of SI 1993/744.

719. Before the 1992 changes, regulation 51(2) of SI 1973/334 required the employee to keep track of what the cumulative tax would be on payments of PAYE income that the employee had received. Regulation 51(3) then required the employee to make quarterly payments to the Inland Revenue of the amount by which the cumulative tax had increased over the quarter. This meant that the employee paid to the Inland Revenue the same amount of tax as the employer might otherwise have been liable to deduct from the payments of PAYE income.

720. But the mechanics were different in the two cases:

- an employer would normally perform calculations *on the occasion of each payment of PAYE income* and then *deduct (or repay) tax* from (or to) the employee on that occasion. The employer would then account to the Inland Revenue for such deductions or repayments after the end of each income tax period; but

- an employee would essentially do calculations *on the occasion of each receipt of PAYE income* (in practice, possibly just one calculation for each quarter). But there was *no requirement for deduction (or repayment)* of tax by the employee from or to him or her self on the occasion of each such receipt. The employee would instead account to the Inland Revenue on a quarterly basis for the deductions that an employer might have made during that quarter if “normal PAYE” were being operated.

721. As the 1992 changes were described in the explanatory notes to SI 1992/3180 as being made:

... so as to ensure the [Regulation applies] to the new system of K codes ...

it seems clear that a major change to the mechanics of regulation 51 of SI 1973/334 was not intended.

722. But those 1992 changes introduced references to:

- tax deducted or repaid, or to tax not deducted, on the payment of emoluments;
and
- total net tax deducted.

723. The introduction of these references does not fit the underlying scheme of what an employee must do. It is difficult to make sense of them.

Approach taken by these regulations to the 1992 changes

724. These regulations are based on what the 1992 changes were intended to achieve. That is adapting the system for K codes. They remove the notion of the employee deducting income tax on the receipt of each payment of PAYE income. They also split the material in regulation 104 of SI 1993/744 into six separate regulations to make it more accessible.

725. Regulations 142 to 147 are, in this respect, essentially a continuation of the rules that applied before the 1992 changes and almost certainly represent the way in which regulation 104 of SI 1993/744 is operated in practice. This change (*Change 97*) in regulations 142 to 147 is a change in the law to the extent that it prevents an employee from arguing for a different interpretation of the regulations but is not expected to lead to any changes in practice.

726. The Inland Revenue do not need regulation 104(7) of SI 1993/744 in order to give a notice to an employee under section 8 of TMA to get a return and self-assessment. It is omitted from these regulations as unnecessary.

Regulation 143: Direct collection: employee to keep records

727. This regulation sets out the information that the employee must record on the deductions working sheet. It is based on regulation 104(2), (14) and (15) of SI 1993/744.

728. The required information relates to the calculation of what the employee must pay to, or can recover from, the Inland Revenue.

Regulation 144: Direct collection: payment

729. This regulation provides for employees make payments to, or recover sums from, the Inland Revenue. It is based on regulation 104(2), (3) and (4) of SI 1993/744 with a minor change.

730. Regulation 104(3) of SI 1993/744 assumes that there will always be a payment due to the Inland Revenue at the end of each quarter. That assumption goes back to the origins of that regulation. The assumption is probably well founded in most cases.

731. But there could be cases where the assumption falls down. Perhaps the employee receives little or no PAYE income in a quarter, has extra reliefs coded in or some combination of little income and increased reliefs.

732. *Paragraph (3)* provides for a repayment to the employee. This is a change in the law (*Change 98*) but not in practice.

Regulation 145: Direct collection: return when relevant payments cease

733. This regulation requires a return where, before the end of the tax year, the employee ceases to receive relevant payments to which the direct collection procedure applies (in much the same way employers issue a Form P45 when an employee leaves). It is based on regulation 104(9) and (10) of SI 1993/744 with a minor change.

734. *Paragraph (1)* asks for the return “without unreasonable delay” where regulation 104(9) of SI 1993/744 requires it “forthwith”. This is part of *Change 39* to bring the regulations into line with practice in relation to returns on cessation of employment. See paragraph 305 on page 60.

Regulation 146: Direct collection: end of year return

735. This regulation requires an end of year return from the employee in cases where regulation 145 has not required an “in-year” return. There is an exception to this if the employee delivers a self-assessment tax return shortly after the year end. And there are provisions for recovery of tax where some of the tax shown on the year-end return has not been paid. It is based on regulation 104(11) to (13) and (16) of SI 1993/744.

Regulation 147: Direct collection: failure to pay

736. This regulation deals with cases where the Inland Revenue is not satisfied that the quarterly payment, if any, from the employee is correct. It provides for the Inland

Revenue to use regulations 77 and 84 to require a return and recover any unpaid tax that it shows. It is based on regulation 104(5) and (6) of SI 1993/744 with a minor change.

737. *Paragraph (2)* includes the change (*Change 71*) to make explicit when the 14-day period in which to make a return starts. See paragraph 471 on page 85.

Part 8: Social security benefits

Overview of Part 8

738. This Part sets out special procedures for certain social security benefits for which the PAYE system makes particular provision.

739. *Chapters 1 and 2* deal with jobseeker's allowance (JSA). Chapter 1 makes provision for the overwhelming majority of people who are paid JSA. It requires the Department for Work and Pensions in Great Britain and the Department for Social Development in Northern Ireland ("the department" in the commentary on this Part) 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 generally also to make tax calculations at the end of the tax year or of the award so claimants get any tax repayments due. Chapter 2 makes special provision for exceptional cases where JSA is paid to people still in work or to share fishermen.

740. *Chapter 3* deals with incapacity benefit (IB). It requires the departments to operate PAYE on payments of taxable IB 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.

741. *Chapter 4* provides for the department to give information about taxable income support to claimants and the Inland Revenue.

Background

742. The regulations in this Part are based on Part 7 of SI 1993/744 with minor changes to bring them into line with practice. But the structure and language of these regulations are 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 that governs entitlement to benefits.

743. The reasons for this difference lie in the history of the Regulations. This was set out in the fifth progress report made to the project's Consultative and Steering Committees in November 2002. It is available from the project or from www.inlandrevenue.gov.uk. In summary, the regulations were drafted for unemployment benefit rather than for JSA and IB. The language and structure of Part 7 of SI 1993/744 shows this.

744. These regulations can take a different approach.

745. First, Chapters 1 and 2 are recast in terms which match the legislation which deals with entitlement to JSA.

746. Second, the provisions for IB are more clearly separated from the provisions for JSA, with separately defined terms.

747. Third, how regulations in other Parts apply to social security benefits is set out explicitly in one table covering JSA and another covering IB.

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

749. This 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. These changes are identified in the commentary on the individual regulations.

Omission of regulation 86 of SI 1993/744

750. 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 obsolete and has been omitted.

Chapter 1: Jobseeker’s allowance: normal cases

Overview

751. 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.

Background

752. A person can qualify for JSA either:

- through national insurance contributions (“contribution-based JSA”) for a maximum of six months, or
- through a means test (“income-based JSA”).

753. The general conditions for JSA are that a person:

- is available for employment;
- has entered into a jobseeker's agreement which remains in force;

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

- 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.

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

Regulation 148: Interpretation of Chapters 1 and 2

755. Regulation 148 defines terms used in Chapters 1 and 2. It is based, with minor changes, on regulations 81, 83(1) and 94 of SI 1993/744.

756. On consolidation in 1993 regulation 81 of SI 1993/744 inadvertently defined “taxable benefit” in terms which included other benefits. No change in policy or practice was intended and no changes were made in practice as a result. But to avoid confusion and make these Regulations more accessible regulation 148 refers explicitly to JSA. This is a change in the law (*Change 99*) to the extent that it removes the possible argument that the Regulations have wider application. It has no practical effect as the Inland Revenue, department and others have never taken the PAYE Regulations to apply more widely.

757. This regulation introduces different labels. Part 7 of SI 1993/744 uses “claim” in two senses: broadly speaking, first, the act of making a claim and, second, the claim which continues. This is far from ideal as readers have to take from the context the sense in which the word is used. These Regulations can take a different approach. The Social Security Act 1998 provides that a *claim* to benefit ends when the Secretary of State makes a decision on it. JSA is paid under an *award*.

758. The headings “Payments to wholly unemployed persons” and “Payments to employed persons” in Part 7 of SI 1993/744 are misleading for JSA. Entitlement to JSA does not turn on unemployment as such. In practice Chapter 3 of Part 7 of SI 1993/744 is applied only 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 2.

759. Broadly, Chapters 2 and 3 of Part 7 of SI 1993/744 are the basis for Chapters 1 and 2 respectively of this Part of these Regulations. So the Chapter 1 claimant is shown as the “normal” case. For “temporarily stopped” workers and share fishermen

the term “Chapter 2 claimant” is used. It is defined in terms of the JSA Regulations that govern those who are laid off or on short time work and share fishermen. This is a change in the law (*Change 100*) but not in practice.

Regulation 149: Scope of Chapter 1

760. 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 148.

Regulation 150: Application of other regulations

761. 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 with a minor change.

762. Regulations 82(1) and 85(1) of SI 1993/744 provide that other regulations apply to payments of taxable benefit only to the extent and with the modifications set out in Part 7 but readers are left to deduce how and with what modifications. *Paragraph (1)* of this regulation lists regulations from other Parts that apply to payments dealt with in Chapter 1. This is a change in the law (*Change 101*) in as much as it removes scope for dispute about which other regulations apply and how. It is not a change in practice.

Regulation 151: Obtaining the claimant’s Form P45

763. This regulation provides that claimants must hand over Parts 2 and 3 of any Forms P45 they have on making a claim. It also allows the department to require a previous employer who did not give a P45 to the claimant to give it to the department. It is based on regulation 84(1), (2) and (8) of SI 1993/744.

764. *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 regulation 36 makes clear that Parts 2 and 3 of Form P45 are not *copies* as such of the statement delivered to the Inland Revenue. Regulations 159 and 215 provide that a simple reference to “Parts 2 and 3 of Form P45” is sufficient to cover Forms P45 received at the end of an employment or the end of an award.

Regulation 152: Deductions working sheet for claimants awarded taxable jobseeker’s allowance

765. This regulation requires the department to prepare a deductions working sheet for all claimants who get taxable JSA. It is based partly on regulation 84(3) and (7) of SI 1993/744. The remaining material in regulation 84 of SI 1993/744 is dealt with in regulations 153 and 154.

766. The requirement to prepare a deductions working sheet is made only indirectly in the references to paragraph (3) in paragraphs (5) and (7) of regulation 84 of SI 1993/744. This regulation makes it more prominent.

Regulation 153: Form P45: deductions working sheet and return

767. 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) and (5) and parts of regulation 84(6) and (7) of SI 1993/744.

Regulation 154: No Form P45: deductions working sheet and return

768. This regulation deals with the preparation of the deductions working sheet for claimants if the department does not get a P45. It is based on part of regulation 84(7) and regulation 84(9) and 84(10) of SI 1993/744. It includes two minor changes.

769. *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 during that period. There is no period laid down in SI 1993/744 but this change (*Change 102*) accords with what the department actually does. This paragraph also provides for the emergency code to be entered in the deductions working sheet.

770. *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. It differs from regulation 84(9) of SI 1993/744 in specifying the information which is provided in practice. This is part of *Change 38*. See paragraphs 300 to 304 on page 59.

771. *Paragraph (3)* provides that no return is required in certain cases where there is unlikely to be any record of previous employment.

Regulation 155: Claimant's code etc to be used for calculations

772. This regulation requires the department to use any code or revised figures from the Inland Revenue for any tax calculation. It is based on regulation 85(2) of SI 1993/744.

773. This caters for the Inland Revenue issuing a new code or revised figures either for total relevant payments to date or for total net tax deducted. This enables the claimant to get the correct repayment if, for example, an emergency code is replaced or cumulation is restored.

Regulation 156: Recording the amount of taxable jobseeker's allowance

774. 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.

775. The regulation omits the reference to regulation 86 of SI 1993/744 in regulation 87 of SI 1993/744 as regulation 86 is unnecessary (see paragraph 750 on page 122).

Regulation 157: Obligations at end of tax year

776. This regulation requires the department to make tax calculations (subject to some exceptions) and provide the Inland Revenue and claimants with information at

the end of the year for awards which have not ceased. It is based on regulation 88 (except paragraph (3)) of SI 1993/744 with a minor change.

777. The requirements of this regulation are similar to those for employers under regulation 67 and part of regulation 73.

778. Regulation 88(5) of SI 1993/744 requires the department to give the Inland Revenue "such particulars as may be required for the identification of the claimant". Paragraphs (4)(e), (f) and (g) instead require the department to give both the Inland Revenue and claimants the claimant's national insurance number and name and address. This is part of *Change 38* (see paragraph 303 on page 59).

Regulation 158: When an award ceases

779. This regulation requires the department to make tax calculations (subject to some exceptions) when an award ends. It is based on regulations 89(1), (2)(a), (3) and (4) of SI 1993/744 with a minor change.

780. The change is in how the end of an award is defined. Regulation 89(1) of SI 1993/744 sets out three circumstances 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 753 on page 122).

781. The full rules relating to entitlement to JSA 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 an award for the purposes of the regulations as the cessation of entitlement to JSA. This is a change in the law (*Change 103*) but not in practice.

782. *Paragraph (2)* is based on regulation 89(2) of SI 1993/744. It requires the department to make a tax calculation in accordance with regulation 161 when an award ceases if the claimant's code is used on the cumulative basis. The condition about the cumulative basis is in regulation 91(4) of SI 1993/744 but has been put in *paragraph (2)* to make clearer when a calculation is not required.

783. *Paragraphs (3) and (4)* provide the date for which a tax calculation is done. The special rule about 4 or 5 April is to avoid the risk of the calculation giving claimants in some years more than their proper amount of free pay because of the provisions for "week 53". This could give rise to excessive repayments of tax which might need to be clawed back (see paragraph 277 of the commentary on regulation 31 on page 55).

784. *Paragraph (5)* is based on regulation 89(4) of SI 1993/744. It provides that if the date used for the calculation is subsequently found to be incorrect the department

does not have to make a fresh calculation. Any necessary adjustment is made by the Inland Revenue.

Regulation 159: Cessation of award: Form P45U

785. This regulation requires the department to give information to the Inland Revenue and claimants at the end of an award of taxable JSA. It is based on regulations 89(2)(b), (c) and (d) of SI 1993/744 with two minor changes.

786. 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 employees in Form P45. This regulation includes two minor changes in line with the approach taken in regulation 36 for Forms P45. See paragraphs 296 to 299 on page 58.

787. First, it recognises there are different parts of the Form P45U. Claimants do not get copies as such of what is sent to the Inland Revenue. This is part of the change (*Change 37*) also made in regulation 36. See paragraphs 297 to 299 on page 58. Indeed, to preserve the claimant's confidentiality on starting a job, the Parts 2 and 3 given to claimants look the same as those given to employees under regulation 36.

788. Second, this regulation sets out in Table 6 the information which is provided in practice, as with other forms dealt with by these Regulations. See the commentary on *Change 38* in paragraphs 300 to 304 on page 58.

789. This regulation omits the requirement in regulation 89(2)(b)(vii) for “the amount of tax shown by the calculation to be payable or refundable on the amount of taxable benefit...”. It is not easy to interpret that requirement. While tax may be payable there can never be any tax to refund in respect of the benefit alone. The tax calculation in regulation 161 may produce an amount of tax which is either payable or refundable. Alternatively 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 the total of JSA *plus* any payments on the P45 at the start of the claim if made within that tax year. There is no way to isolate taxable benefit in order to make a separate calculation of tax liability in respect of that income as distinct from any other income.

790. 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 corresponding total net tax deducted.* (*emphasis added*)

791. 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) of SI 1993/744 is omitted from this regulation.

792. *Paragraph (4)* is based on regulation 89(2)(d) of SI 1993/744. It provides for the department to give the claimant a statement, in addition to the P45U, of total jobseeker's allowance and of total taxable jobseeker's allowance. This helps claimants to see how much JSA they have received and how much of that was taxable. The form on which the information is supplied tells claimants how to object if they disagree with the amounts.

793. *Paragraph (5)* is new but follows from making explicit how Parts 2 and 3 of the Form P45 are used for JSA. It provides how as a matter of law the labels in the forms are to be read when they are used for JSA.

794. This approach to the P45 and P45U is in line with practice but is a change (*Change 104*) in the law to the extent that it denies claimants the scope to argue that:

- certain information should not be shown in the form;
- they must be given in Part 1A the information about tax payable or refundable;
or
- the Parts 2 and 3 which they receive should make specific reference to JSA.

795. *Paragraph (6)* provides a signpost to regulation 163 which modifies the way that the forms are completed and issued following the death of a claimant.

Regulation 160: Notification of taxable jobseeker's allowance adjustment

796. This regulation requires the department to give claimants and the Inland Revenue revised figures if the amount of taxable JSA notified at the end of the tax year or end of the claim is subsequently adjusted. It is based on regulations 88(3) and 90 of SI 1993/744.

Regulation 161: Tax calculation

797. This regulation requires the department to make tax calculations at the end of awards and tax years, and repay tax to claimants. It is based on regulation 91(1) to (3) and (6) of SI 1993/744.

798. The calculation is much the same as employers make when operating PAYE on the cumulative basis (see regulation 23). But it does not require the department to make deductions of tax. And there are some differences in the calculation because of the way it is done at the end of an award or tax year. To make the calculation clearer new labels are used.

799. This regulation:

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

- provides that the end result of the calculation will be an amount of total tax deductible at the relevant date;
- provides that if the calculation shows tax has been underpaid the code is to be operated on the non-cumulative basis (ready for the next employer who picks it up from the Form P45);
- provides for a repayment to be made if the calculation shows tax has been overpaid; and
- defines the “relevant date” for regulations 157 and 158.

800. *Paragraph (2)* includes the minor change (*Change 20*) to omit the requirement for intermediate steps in the calculation as in regulation 23. See paragraph 208 on page 42.

801. *Paragraph (4)* introduces the label “tax outstanding” to make clearer what is required on Form P60U by regulation 157(5)(b) and on Form P45U by item 11 of Table 6 in regulation 159. Tax outstanding at the end of the year is collected either by the Inland Revenue adjusting the PAYE code or by the taxpayer making direct payment.

802. *Paragraph (4)(b)* provides that if the calculation shows an underpayment then the department must treat the code as used on the non-cumulative basis. This prevents a bigger underpayment building up on the claimant returning to employment.

803. *Paragraph (5)* defines terms used in this regulation.

804. Regulation 91(3) of SI 1993/744 refers to:

the previous total net tax deducted recorded on the working sheet

805. This is not defined but in context must be the figure for tax entered in the deductions working sheet at the start of a claim under regulation 153(3) or (4). This regulation makes it explicit.

806. Regulation 91(1)(b) of SI 1993/744 requires the department to find:

the total net tax deductible at the relevant date, save that where the code reflects additional pay, the total net tax deductible shall not exceed the overriding limit

where

“the total net tax deductible” means the total tax due in accordance with the appropriate tax tables in respect of any taxable emoluments at the relevant date. (Regulation 91(6) SI 1993/744.)

807. This is not easy to interpret. The overriding limit is defined in regulation 2(1) of SI 1993/744 as a limit on the amount of tax to be deducted from a payment. The department is not making deductions. So this regulation sets out a tax calculation based on the sum of any payments recorded by the department from a P45 plus the total taxable JSA. It then provides for the 50% overriding limit to apply to the tax calculated from that total. This is a change in the law (*Change 105*) in as much as it removes the scope for a claimant to argue for a different calculation but is in line with practice and so will have no practical effect on repayments.

Regulation 162: No tax calculation required in certain cases

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

809. The circumstances are, in summary, where the department did not start with up to date information or where the claimant's PAYE code makes it unlikely the calculation would give the right tax.

810. *Paragraph (3)* excepts cases where the Inland Revenue has notified the department of a revised code or figures under regulation 155 and so has provided the department with up to date information.

Regulation 163: Death of claimant

811. This regulation modifies the normal requirements in regulations 158 and 159 for the end of an award to cater for the death of a claimant. It is based on regulation 92 of SI 1993/744 with a minor change.

812. Regulation 92(1) of SI 1993/744 requires the department to send Part 1 of Form P45U to the Inland Revenue. This regulation requires in addition that the department show in that form that the claimant has died. This is a change (*Change 106*) in the law but not in practice.

813. *Paragraph (2)* requires the department to send the personal representatives, if they are known, information about JSA and taxable JSA.

814. *Paragraph (3)* provides that the department need not do so and need not make a tax calculation if it does not know details of the personal representatives within 30 days of the claimant's death. Its purpose is to give the department a date after which the deceased's papers may be closed. It does not restrict the provision of information to the personal representatives, as accredited representatives may at any date obtain it from the Inland Revenue.

Regulation 164: Finance

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

Chapter 2: Jobseeker's allowance: special cases

Overview

816. This Chapter deals with the 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.

Regulation 165: Scope of Chapter 2

817. Regulation 165 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.

Regulation 166: Jobseeker's allowance paid directly to claimant

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

Regulation 167: Jobseeker's allowance paid by employer

Regulation 168: Regulation 167 cases: application of other regulations

819. 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.

820. No such payments have ever been made so far as the Inland Revenue and the departments are aware. But they could be made in future without the need for new JSA legislation. Accordingly these provisions are retained in the regulations with the agreement of the two departments.

821. The regulations essentially require employers who pay JSA to employees on behalf of the department to operate PAYE in the normal way.

822. Regulation 168(2) and (3) deal with cases, should any ever arise, where an employer pays JSA on behalf of the department but cannot operate PAYE in the normal way. It allows the Inland Revenue to make other arrangements to collect any tax due. No such arrangements have been made because, as already mentioned, employers have not paid JSA on behalf of the department.

823. Regulation 168(4) 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 an award 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 (in Forms P45, P60, P35 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 regulation disapplies regulations 170 to 172 if an employer provides the information. This is a change in the law (*Change 107*) in as much as regulation 97 of SI 1993/744 is silent on the point. It affects only information – not the amount of tax or how it is collected. There is no practice as no such payments have ever been made.

Regulation 169: When a Chapter 2 award ceases

824. This regulation provides for Chapter 2 awards to end for the purposes of this Chapter when a claimant ceases to be entitled to JSA as one of the special cases dealt with by this Chapter. It is based on regulation 97(1) of SI 1993/744 with a minor change.

825. Regulation 97(1) of SI 1993/744 defines the termination of a claim. Like regulation 89 of SI 1993/744 (see paragraph 780 on page 126) it does so in a way which fitted with unemployment benefit. It fits less well with JSA. This regulation uses instead the specific JSA regulations by reference to which Chapter 2 claimants are defined. The same approach is taken in regulation 158. This is a change in the law (*Change 108*) but not in practice.

Regulation 170: Information to be supplied at end of tax year

826. This regulation requires the department to provide the Inland Revenue and the claimant with information at the end of the tax year much as employers must do for employees. It is based on regulation 97(2) of SI 1993/744 with a minor change.

827. Regulation 97(2) requires the department to provide information at the end of an award “showing the amounts appropriate to each year.” So the requirement to give the information in respect of a tax year is not new. But under regulation 97(2) the information might in principle not be provided until long after the end of the tax year if the award runs on.

828. In practice the department does provide the information after the end of the tax year, whether or not the award has ended. It does so using Form P181. The claimant’s copy of this includes details of how to object if the statement is wrong. More than one year’s benefit may be shown in the form. So, if the award were to come to an end after 5 April and before 31 May, the single form could be used to convey information for the previous tax year under this regulation and for the new tax year to the end of the award under regulation 171. This regulation does not affect that practice. This is a change in the law (*Change 109*) only to the extent that it fixes the date by which the information is to be provided.

Regulation 171: Information to be supplied when an award of taxable jobseeker’s allowance ceases

829. This regulation requires the department to provide the Inland Revenue and claimants with information at the end of an award. It is based on regulation 97(2) of SI 1993/744 with a minor change.

830. Regulation 97(2) of SI 1993/744 requires the department to notify the Inland Revenue and the claimant of benefit for each tax year in which JSA was paid. The requirement to give information at the end of the tax year introduced in regulation 170 means this regulation need deal only with JSA paid in the tax year in which the award ceases.

831. Regulation 97 of SI 1993/744 makes no special provision for claimants who die. This regulation does. *Paragraph (1)* disapplies the normal requirement to give the information to the claimant. *Paragraph (2)* requires the department to give the information to the deceased claimant's personal representative, where known, within 30 days of the claimant's death. This is a change (*Change 110*) in the law to fill a gap in SI 1993/744 which makes no provision for notification of benefit following the death of a Chapter 2 claimant. As with regulation 163, if personal representatives do not receive the information from the department they can get it from the Inland Revenue.

Regulation 172: Adjustments of taxable jobseeker's allowance

832. This regulation requires the department to inform claimants and the Inland Revenue if taxable JSA is paid or recovered after the award has ended and a notice has been issued under regulations 170(2) or 171(1). It is based on regulation 98 of SI 1993/744 with a minor change.

833. The minor change is that this regulation:

- requires the department to tell claimants the revised figures of *both total and taxable JSA*. Regulation 98 of SI 1993/744 requires only the revised figure of taxable JSA; and
- applies the requirement to further payments of taxable JSA. (Regulation 98 of SI 1993/744 applies only to recovery of JSA which was overpaid.)

834. This helps claimants to see how much JSA they have received and how much of that was 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. This change (*Change 111*) cannot affect tax liabilities and is in line with current practice.

Chapter 3: Incapacity benefit

Overview

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

Background

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

- for the short-term benefit paid at a lower rate usually for 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; and
- where IB is payable to a person who was entitled to invalidity benefit prior to 13 April 1995 (when IB replaced invalidity benefit) if the benefit is in respect of the same period of incapacity.

837. 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 173: Interpretation of Chapter 3

838. Regulation 173 defines terms for the purposes of Chapter 3. It is based on regulations 81, 98A and 98C(2) of SI 1993/744 with a minor change.

839. This regulation defines “award” for use in place of the second meaning of “claim”. The same approach is taken for JSA: see the commentary on regulation 148 on page 123.

840. SI 1993/744 defines “claim” and “claimant” in terms of *taxable* benefit. Readers then have to keep in mind that references to incapacity benefit are all references to *taxable* incapacity benefit. This regulation takes a different approach. It defines “claim” and “claimant” to mean what people would expect them to mean from social security legislation. It then defines “taxable incapacity benefit” to remind readers what the regulations are dealing with.

841. This regulation introduces the term “single-income claimant”. There is no equivalent term in Chapter 4 of Part 7 of SI 1993/744 although the concept is there. How payments of taxable IB are treated depends on “the circumstances specified in regulation 98C(2)”. Regulation 98C(2) is:

- (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.

842. If a claimant is within those circumstances the department operates PAYE. If not, it does not. There are five references to “the circumstances specified in regulation 98C(2)” in order to distinguish the group of claimants whose benefit is subject to particular PAYE operations. These regulations use instead the label “single-income claimant” to describe claimants for whom the department operates PAYE (the majority of those who get taxable IB).

843. The definition of single-income claimant in this regulation reflects the fact that in practice the department also accepts as outside the circumstances specified in regulation 98C(2) claimants who have a continuing source of self-employment income. Tax on their IB can be collected by means other than PAYE. This is a change (*Change 112*) in the law to bring it into line with practice.

844. The regulation makes use of definitions of “self-employed earner” 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).

845. The definition of “Department” reflects the allocation of responsibilities for IB in Great Britain and in Northern Ireland since August 2001.

Regulation 174: Application of other regulations

846. This regulation applies regulations from other Parts to payments of IB with some modifications. It is based on regulations 82, 98B, 98F(5), 98G and 98H of SI 1993/744 with a minor change.

847. Regulation 98B of SI 1993/744 applies Parts 3 and 4, part of Part 5 and Part 8 of SI 1993/744 to IB “as if it were a payment of emoluments from the claimant’s employment.” Regulations 98F(5), 98G(2) and 98H are more explicit. But other regulations are applied “with any necessary modifications” leaving readers to deduce what (if any) modifications are actually necessary. This regulation is explicit about which regulations apply and with what modifications. This is a change in the law (*Change 113*) in as much as it removes room for dispute about which regulations apply and with what modifications. But it is in line with practice.

Regulation 175: Emergency IB code to be used before claimant's code issued

848. This regulation requires the department to operate an emergency IB code on the non-cumulative basis when making payments of taxable IB 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.

849. The definition of an emergency IB code is given at regulation 7(3)(e). It is either the normal emergency code or, if appropriate, the larger code which includes the blind person's allowance.

850. *Paragraph (3)* makes explicit what is implicit in SI 1993/744 – that the emergency IB code the department is required to use is treated as a code issued to the department. If it were not then the department would not be obliged under regulation 6 of SI 1993/744 to deduct tax when paying IB and regulation 98C of SI 1993/744 would make no sense. Nor would the department be obliged to issue Form P45 under regulations 23 or 27 of SI 1993/744 if a claim ended or a claimant died before the Inland Revenue had issued a code under regulation 98F of SI 1993/744.

Regulation 176: Return in respect of all claimants to taxable incapacity benefit

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

852. The change (*Change 114*) is that it requires the information that the department provides in practice. In detail:

- paragraph (2)(c) requires the date of birth which helps the Inland Revenue to identify claimants quickly and so set the appropriate PAYE code;
- paragraph (2)(g) requires notification of whether the non-cumulative basis has been used. This indicates that either it is not a first return or that the return is for someone other than a single-income claimant;
- paragraph (2)(h) concerns claimants who receive non-taxable IB before taxable IB. It requires the department to give the date that payment of non-taxable IB started. Without this information the Inland Revenue ask claimants about their income in what would appear to be a gap – for example, a gap between sick pay coming to an end and taxable IB starting; and
- paragraph (2)(i) requires the department to provide the claimant's tax reference, if known. This information is particularly useful for claimants who are not single-income claimants. It enables the Inland Revenue to find quickly the office which will take responsibility for ensuring that the right tax is paid.

Regulation 177: Further return required in certain cases

853. This regulation requires the department to make a further return to the Inland Revenue if the rate of taxable IB changes for a claimant with a nil tax code. It is based on regulation 98D(3) of SI 1993/744 with a minor change.

854. Generally, where the department is operating PAYE, any change in the rate of IB requires no action. PAYE is designed to cater for variations in payments. But a nil tax code will have been set on the basis that the claimant was not going to be liable to tax on total income. When the rate of taxable IB changes that decision needs to be reviewed. The return required by this regulation causes the Inland Revenue to do so.

855. *Paragraph (4)* makes a minor change. It requires the department to indicate in the return that the rate of taxable IB is a revised rate. This is to distinguish clearly these returns from the initial returns required by regulation 176. This is a change (*Change 115*) in the law but not in practice as the department already includes this information.

Regulation 178: Delivery of Form P45 to Department

856. This regulation requires a claimant to give the department any P45 held on making a claim, unless the P45 is needed to claim a tax repayment. It is based on regulation 98E of SI 1993/744.

857. Regulation 98E of SI 1993/744 applies only to single-income claimants. So does this regulation. But the use of the term “single-income claimant” makes the application much clearer.

Regulation 179: Determination of claimant’s code by Inland Revenue

858. This regulation requires the Inland Revenue to set a code for the claimant after receipt of the return required by regulation 176 and specifies the range of codes that may be used. It is based on regulation 98F(1) to (4) of SI 1993/744 with minor changes.

859. *Paragraph (1)* requires the Inland Revenue to determine the claimant’s code on receipt of a return for a single-income claimant. It is based on regulation 98F(1) of SI 1993/744. But the condition that the return must be in respect of a single-income claimant has been added. The returns under regulation 176 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 adjust the PAYE codes to take taxable IB into account. The department does not operate PAYE on payments of IB to them and so does not need a PAYE code for them. This is a change in the law (*Change 116*) but not a change in practice. It will not result in the introduction of any new procedures affecting claimants.

860. *Paragraph (2)* provides for the Inland Revenue to determine codes for certain claimants who are *not* single-income claimants. This is a change in the law (*Change 117*) which brings it into line with the practice for a small number of

claimants. They are not single-income claimants as defined. But the Inland Revenue may nevertheless issue a code for the department to deduct tax. The Inland Revenue do so if there is no other practical method of collecting tax on the taxable IB. Examples of circumstances in which this may happen are:

- the claimant's other source of PAYE income comes to an end; and
- the claimant's other PAYE income is too small for any tax arising from the IB to be collected from it by means of an adjustment to the PAYE code for that other income.

861. *Paragraphs (3) to (6)* provide for the way that reliefs are to be given and the reliefs that may be taken into account when setting the code for the department to operate on payments of taxable IB. Relatively few codes are possible given the way that IB is paid in practice. The children's tax credit is omitted from the list in regulation 98F as it will not be relevant for years to which these regulations will apply.

Regulation 180: Death of claimant

862. This regulation requires the department to tell the Inland Revenue if a claimant dies and to continue to deduct tax if any later payments are made. It is based on regulations 27 and 98B of SI 1993/744 with minor changes.

863. Regulation 98B of SI 1993/744 applies regulation 27 (death of employee) to payments of incapacity benefit. Regulations 38 (death of employee) and 39 (death of pensioner) of these Regulations are based on regulation 27. The material was split between the two regulations so as to deal better with the difference between employment income, which is taxed on the "receipts basis", and pension income, which is not.

864. Incapacity benefit is taxed on the same basis as pension income (see section 661 of ITEPA). So it might be thought that regulation 39 should simply be applied to incapacity benefit. That is in effect what is done here. But if it had been done by including regulation 39 in the list of regulations set down in regulation 174(1) several modifications would have been needed. This is because regulation 174(2) tells readers to treat "employee" as "claimant" and so on in regulations applied by regulation 174(1). That would not work in regulation 39.

865. So regulation 180 is provided as a separate regulation that applies to taxable incapacity benefit as regulation 39 applies to pensions. It uses the equivalent language appropriate for incapacity benefit with the changes (*Changes 41 and 42*) in regulation 39. See paragraphs 318 to 320 on page 62.

Chapter 4: Income support

Overview

866. 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 personal representatives, and the Inland Revenue of the amounts paid when an award ends.

Background

867. Income support is taxable in only rare circumstances (see section 665 of ITEPA). SI 1993/744 makes no provision for such payments. These regulations are included as the procedures applied in practice are much the same as in Chapter 2 of this Part.

868. This is a change in the law (*Change 118*) in as much as there are currently no provisions requiring information about taxable income support. But it is, apart from one minor exception noted in the commentary on regulation 183(2) (see paragraph 872), in line with current practice.

Regulation 181: Interpretation of Chapter 4

869. This regulation defines terms used in the Chapter. It follows the approach taken in previous Chapters in this Part – see, for example, the commentary on regulation 173 on page 134.

Regulation 182: Recording the amount of taxable income support

870. 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 166 in Chapter 2.

Regulation 183: Information to be supplied when an award of taxable income support ceases

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

872. Regulation 183(3) provides 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 and is similar to regulation 171. At present there is no defined practice regarding notification of benefit following the death of a claimant.

Regulation 184: Adjustments of taxable income support

873. 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 has been issued under regulation 183(2). It is similar to regulation 172 in Chapter 2.

Part 9: Assessment and self-assessment

Overview

874. This Part contains four regulations (based on material in Part 8 of SI 1993/744) dealing with the relationship between tax deducted under PAYE and assessments under TMA:

- *regulation 185* deals with adjustments to the amount of tax deducted under PAYE taken into account for the purposes of a person's self-assessment;
- *regulations 186 and 187* set out how PAYE can be used to collect or repay the balance of tax in a self-assessment, if the taxpayer does not object; and
- *regulation 188* deals with adjustments to the amount of tax deducted under PAYE taken into account for the purposes of an assessment other than a self-assessment.

Background

875. The background to and history of the material in Part 8 of SI 1993/744 was set out in detail in the sixth progress report on PAYE regulations to the project's Consultative and Steering Committees in December 2002. That is available still from the project or from www.inlandrevenue.gov.uk. That material is not repeated in this commentary.

876. Part 8 of SI 1993/744 contains a lot of material that relates to the PAYE system as it was before two reforms of the tax system. The first reform was made by the Income Tax Management Act 1964. It applied to 1965-66 and later tax years. That Act provided for the Inland Revenue to make Schedule E assessments. So the PAYE regulations no longer needed to deal with making Schedule E assessments. But the PAYE regulations continued to deal with how much tax was due under Schedule E assessments; and with how and when tax should be paid (or repaid).

877. The second reform was Self Assessment for income tax. That applied to 1996-97 and later tax years. Self Assessment:

- made individuals, rather than the Inland Revenue, primarily responsible for assessing their income and capital gains tax liabilities, and
- ended the system of separate, schedular assessments for income tax.

878. Self Assessment made redundant much of the material in Part 8 of SI 1993/744. There is now little or no need for regulations 99, 100, 103 and 105 to 108 of SI 1993/744. Those regulations are, to the extent necessary, dealt with in Schedule 1 as savings in case there is an exceptional circumstance in which they are needed in the years covered by these Regulations.

Regulation 185: Adjusting total net tax deducted for purposes of sections 59A(1) and 59B(1) TMA

879. This regulation adjusts the total net tax deducted under PAYE for the purpose of the calculations in sections 59A and 59B of TMA. It is based on regulations 101A(1), (2) and (4) and 101(4), (5) and (6) of SI 1993/744 and regulation 13(1) of SI 1994/1212, with minor changes.

880. For self-assessment taxpayers, sections 59A and 59B of TMA deal with:

- what (if any) payments on account must be made for a year; and
- what balance of tax remains payable or repayable after the end of the year.

881. The calculations in those sections take account of tax already paid for a year including tax deducted under PAYE. Those sections also make one adjustment to the tax deducted under PAYE. But they leave the PAYE regulations to make other adjustments to the tax deducted under PAYE. This regulation does so.

882. *Paragraph (5)* brings together material from regulations 101A and 101(4)(a), (5) and (6) of SI 1993/744. The definition of “tax treated as deducted” in *paragraph (6)* means that paragraph (5) applies to give a taxpayer credit for tax on notional payments that an employer should have accounted for but did not. SI 1993/744 and SI 1994/1212 do not clearly give this result. However, it is thought to be the better view given that it removes anomalies between regulations 49(5) (as modified in relation to notional payments) and 101A of SI 1993/744. The same point arises with regulation 188(3). This is part of *Change 35*. See paragraphs 391 to 396 on page 73.

883. Regulation 101(5) of SI 1993/744 restricts the credit for tax that should have been deducted under PAYE but was not deducted (“employer tax”). That restriction ensures employer tax is not repaid to the employee. Regulation 101(5) *broadly* operates by limiting employer tax to:

(assessed tax liability on PAYE income) – (actual PAYE deductions).

884. Thus there is effectively a “cap” on the credit for employer tax under regulation 101 of SI 1993/744 equal to the gross liability on the PAYE income minus tax deducted under PAYE.

885. The explicit reference in regulation 101A(2)(b) of SI 1993/744 to regulation 101(5) makes it clear that there is a cap on credit for employer tax under Self Assessment. But a person’s self-assessment does not give a figure for tax on PAYE income alone. Nor are actual PAYE deductions the only matters taken into account in deciding what remains payable or is repayable. That makes it difficult to say with certainty what the cap is under regulation 101A.

886. The commentary in the sixth progress report (see paragraph 875) considered various alternatives for an explicit cap in the context of Self Assessment and proposed the approach taken in *paragraph (5)*. Responses to that proposal felt it was fair and welcomed the certainty it gave. Paragraph (5) adds back any payments on account so that they do not reduce the cap on credit for employer tax. That prevents a taxpayer being disadvantaged by having made payments on account. It is simple in that it does not require a separate calculation of tax on PAYE income. It broadly gives a cap equal to the self-assessment tax liability less tax deducted at source. This is a relatively generous cap on employer tax that in principle is favourable to most taxpayers affected by this provision. But it is likely to have little effect in practice. It is a change (*Change 119*) in the law for paragraph (5) to provide an explicit cap where SI 1993/744 is unclear.

Regulation 186: Recovery: adjustment of employee's code

887. This regulation deals with adjustments to PAYE codes to collect the balance of tax in a self-assessment. It is based on regulation 101A(3) of SI 1993/744 with a minor change.

888. *Paragraph (1)* applies if a taxpayer owes money to the Inland Revenue under section 59B(1) of TMA.

889. *Paragraph (2)* assumes, purely for the purpose of paragraph (1), that there will be no coding out of an underpayment. That assumption is needed to avoid the kind of circularity that might result from:

- there (initially) being an underpayment of £1,000;
- so this regulation applies;
- the underpayment of £1,000 is coded out under this regulation;
- after which there is no longer an underpayment;
- so this regulation does not apply;

and the process starts over.

890. *Paragraphs (3) to (5)* set out the conditions for self-assessment underpayments to be collected through PAYE. They are new but reflect current practice.

891. The power to make PAYE regulations always included power to deal with underpayments and overpayments of tax from earlier years and PAYE regulations have always provided for them to be taken into account in setting codes. But this was strictly limited to tax on PAYE income. This does not fit with Self Assessment, which arrives at a single tax liability on a person's total income (and capital gains). In

practice PAYE has continued to be used since the introduction of Self Assessment to deal with underpayments and overpayments. This was clearly intended when the legislation for Self Assessment was introduced and is recognised in sections 59A(10) and 59B(8) of TMA which provide for the PAYE regulations to adjust figures used there (see regulation 185). This regulation and regulation 187 make explicit provision for the way that this has been done in practice.

892. This is a change (*Change 120*) in the law in regulations 186 and 187. It allows the PAYE code to be adjusted for income or capital gains tax underpaid or overpaid. It also introduces a new right for taxpayers to object to PAYE codes being adjusted in this way. Item 2 in the list in section 684(2) of ITEPA (as inserted by section 145(1)(a) of Finance Act 2003) gives the power for the regulations to deal with such adjustments and provide for objections.

893. Regulation 101A(3)(a) of SI 1993/744 has not been rewritten. It allows the Inland Revenue to require a taxpayer to pay the balance of tax in a self-assessment but that is unnecessary as the tax is automatically payable under section 59B of TMA.

Regulation 187: Repayment: adjustment of employee's code

894. This regulation allows a self-assessment overpayment to be repaid through a PAYE coding adjustment, unless the taxpayer objects. It is new and forms part of *Change 120* which is discussed under the preceding heading.

Regulation 188: Assessments other than self-assessments

895. This regulation deals with tax charged on PAYE income in an assessment that is not a self-assessment. It is based on regulation 101(2), (3), (4), (6) and (7) of SI 1993/744 and regulation 13(1) of SI 1994/1212, with a minor change.

896. Since the introduction of Self Assessment, regulation 101 of SI 1993/744 is only capable of applying to “discovery assessments” made by the Inland Revenue under section 29 of TMA. “Discovery assessments” under section 29 of TMA are ones to “make good to the Crown the loss of tax”. The scope of regulation 101 of SI 1993/744 is therefore very limited. But it is necessary to retain some provision to reduce the tax assessed for the year on PAYE income by tax deducted under PAYE during that year and allow credit to be given to an employee for tax that should have been, but was not, deducted.

897. *Paragraph (3)* includes the change to make explicit that an employee can get credit for tax that should have been accounted for but was not (see paragraph 882). This is also part of *Change 35*. See paragraphs 391 to 396 on page 73.

898. As, for current years, regulation 101 of SI 1993/744 applies only to assessments intended to make good to the Crown a loss of tax, the assessments to which it applies will in future no longer lead to repayments of tax as regulation 101(1) envisages. So regulation 101(1) of SI 1993/744 is not reproduced in this regulation.

899. Instead paragraph 25 of Schedule 1 (transitional etc provisions) preserves the operation of regulation 101 of SI 1993/744 for any Schedule E assessments that are made in relation to years before 1996-97.

900. Regulation 101(4)(b) of SI 1993/744 is dealt with by paragraph 26 of Schedule 1. That provision relates to payments made under a profit-related pay scheme that is registered under Chapter 3 of Part 5 of ICTA. The registration of such schemes came to an end by 31 December 2000 at the latest (section 61(3) of FA 1997). The last tax year affected by regulation 101(4)(b) was 2000-01.

Part 10: Communications

Overview

901. This Part provides for communications and payments. It includes provision for electronic communications and payments, and requires some employers to use them for some information and payments.

902. *Chapter 1* defines terms used in this Part.

903. *Chapter 2* provides for proof in respect of electronic information and payments.

904. *Chapter 3* requires large employers to make electronically any monthly payments of PAYE.

905. *Chapter 4* requires large employers (and in future years large and medium employers) to deliver end of year returns (Forms P35 and P14) electronically.

906. *Chapter 5* provides how certain information required by the Regulations must or may be delivered by employers, employees and the Inland Revenue. This includes provisions for the voluntary use by employers of electronic delivery.

Approach taken in this Part

907. Regulations 2(1) and (4) and 2A to 2E of SI 1993/744 make general provisions for electronic communications. There are then specific provisions in various regulations which provide for employers and the Inland Revenue to use electronic communications for specific information. There are then additional provisions in regulations 42A and 42B and 46ZC to 46ZG of SI 1993/744 (inserted by SI 2003/2494) which require the use of electronic communications by certain employers for certain information and payments.

908. There are similarly specific provisions in various regulations of SI 1993/744 which require information which is not delivered electronically to be provided in a form approved or provided by the Board of Inland Revenue.

909. These provisions are brought together in this Part. Doing so:

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- makes the preceding regulations clearer: they can focus on *what* information employers must provide, leaving to this Part *how* they must or may provide it;
- gives readers complete lists (in regulations 211 to 214) of what must be done in an approved form and what may be done electronically;
- provides a better foundation for future development of electronic communications.

910. This Part also takes a different approach to defining the means of electronic communications which may be used.

911. SI 1993/744 reflects the way the use of such methods has developed:

- there was first a system known as “electronic data interchange” (EDI). Regulation 2(4) of SI 1993/744 provides that references to “electronic transmission of information” are to be read as references to the transmission of information between the Inland Revenue’s and an employer’s computer system by means of EDI;
- later systems made use of the internet to deliver information. Regulation 2(1) of SI 1993/744 defines “official computer system” to mean a computer system maintained by or on behalf of the Board for the purpose of the service known as the Internet Service for PAYE;
- individual regulations which provide for electronic delivery of information provide separately for the use of EDI or the internet service for PAYE.

912. Regulation 25 of SI 1993/744, for example, has to cater for an employer submitting the information about a new employee in Part 3 of Form P45 on paper, by EDI or by the internet service. It provides for the employer to:

- (i) send that copy to the inspector by whom code authorisations are normally issued to him,
- (ii) arrange for both the particulars specified in paragraphs (i) to (iv) of sub-paragraph (a) and the particulars contained in the statement to be transmitted electronically to that inspector, or
- (iii) deliver a copy of the statement by an approved means of electronic communications to an official computer system.

913. Earlier drafts of some regulations in this Part made such provisions a little simpler by defining and referring explicitly to Electronic Data Interchange and the internet service for PAYE. This had the advantage that the Regulations used the labels used in practice to describe the systems. But it still required separate provisions for the separate systems. And it risked the labels becoming out of date as systems evolved. This proved to be a real risk. The Inland Revenue is developing the

electronic services it offers as “PAYE online for employers” and “PAYE online for agents”.

914. These Regulations cater for this and for future developments by providing for the use of *any* system currently approved for the purpose. This patently means the labels are less colourful. It also leaves employers and others to refer to the Board’s directions (or Inland Revenue guidance) to find which services are approved for what purposes. But it means that the Regulations provide a better foundation for new services.

915. This approach involves a minor change in the law. Regulation 2(4) of SI 1993/744 provides explicitly for the system known as Electronic Data Interchange. In these Regulations that is just one of the systems approved by the Board. This is a change in the law (*Change 121*) only to the extent that it allows, in principle, the Board to remove the option for employers to use EDI without amending the Regulations. It does not affect practice as, before April 2004, the Board will make a direction approving the use of Electronic Data Interchange for all the purposes of the Regulations for which it can currently be used. The Board have no plans to withdraw the service.

Chapter 1: Electronic communications: interpretation

Regulation 189: Meaning of electronic communications etc

916. This regulation defines the main terms used in Part 10 for the computer systems used for e-business for PAYE. It is based on the definitions of “electronic communications” (including “approved” in relation to a means of electronic communications) and “official computer system” and on the meaning given to “electronic transmission of information” in regulation 2(1) and (4) of SI 1993/744 with a minor change.

917. Regulation 2(4) of SI 1993/744 provides only for systems maintained by or on behalf of the Board’s officers. This regulation defines “official computer system” to include systems maintained by or on behalf of the Board of Inland Revenue themselves. This change (*Change 122*) has no practical effect.

918. The definition of “electronic communications” in section 132(10) FA 1999 is

“electronic communications” includes any communications by means of a telecommunication system (within the meaning of the Telecommunications Act 1984);

919. Section 4(1) of the Telecommunications Act 1984 provides:

(1) In this Act “telecommunication system” means a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of—

(a) speech, music and other sounds;

(b) visual images;

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(c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or

(d) signals serving for the actuation or control of machinery or apparatus.

Regulation 190: Specified date

920. This regulation provides for the Board of Inland Revenue to announce each year the date at which employees will be counted to determine whether or not an employer is “large” or “large or medium sized” for the purposes of the requirements for e-filing and e-payment. It is based on parts of regulations 42A(1) and (2) and 46ZD(4) of SI 1993/744.

Regulation 191: Large and medium sized employers

921. This regulation defines “large employer” and “large or medium sized employer”. It is based on parts of regulation 42A(2) and (3) and regulation 46ZD(4) of SI 1993/744.

922. The definition is based on, broadly speaking, the number of “live” employees in the employer’s PAYE scheme at the specified date. That includes employees for whom the employer must keep records under the Regulations for tax credits.

Chapter 2: Electronic communications: general

Regulation 192: Whether information has been delivered electronically

923. This regulation provides that information is taken to have been delivered to the Inland Revenue’s computer system by an approved method only if it is accepted by that system. It is based on regulation 2A of SI 1993/744.

Regulation 193: Proof of content of electronic delivery

924. This regulation provides that a certified print-out of information from an official computer system is evidence of the information sent to or from the Inland Revenue unless proved otherwise. It is based on regulation 2B of SI 1993/744 with a minor change.

925. The change is that this regulation applies only to information delivered by an approved method of electronic communications. Regulation 2B of SI 1993/744 applies to all information delivered electronically. This is a change in the law (*Change 123*) to bring it into line with practice. The Inland Revenue does not rely on electronic transmission to employers by unapproved methods. It is in line with the way that regulation 198 denies employers the right to rely on unapproved methods to deliver information to the Inland Revenue.

Regulation 194: Proof of identity of person sending or receiving electronic delivery

926. This regulation provides that the person recorded by the Inland Revenue as the sender or recipient of electronic transmissions is deemed to be the sender or recipient of electronic transmissions unless the contrary is proved. It is based on regulation 2C of SI 1993/744.

Regulation 195: Information sent electronically on behalf of a person

927. This regulation provides that any information sent electronically on behalf of a person is deemed to have been transmitted by that person unless that person can prove that it was transmitted without his or her knowledge or connivance. It is based on regulation 46ZB of SI 1993/744.

Regulation 196: Proof of delivery of information sent electronically

928. This regulation provides that an electronic transmission of information has resulted in delivery if it is recorded on the Inland Revenue's computer system, unless the contrary is proved. It is based on regulation 2D of SI 1993/744 to the extent that regulation 2D deals with information. Regulation 197 deals with the application of regulation 2D of SI 1993/744 to payments.

929. *Paragraph (3)* of this regulation and of regulation 197 provide for both the time of receipt and the time of despatch recorded in an official computer system. Regulation 2D of SI 1993/744 provides only for the time of receipt. This is a change in the law (*Change 124*) to the extent that it removes doubt about the application of regulation 2D to information sent and payments made by the Inland Revenue to employers.

Regulation 197: Proof of payment sent electronically

930. This regulation provides that an electronic transmission of a payment has resulted in the payment being made if it is recorded on the Inland Revenue's computer system, unless the contrary is proved. It is based on regulation 2D of SI 1993/744 to the extent that regulation 2D deals with payments.

Regulation 198: Use of unauthorised method of electronic communications

931. This regulation provides that only approved methods of electronic communications can be used to deliver information to the Inland Revenue. It is based on regulation 2E of SI 1993/744.

932. It might be thought that this provision was unnecessary given that regulation 211 provides only for delivery of information by approved means. But it is necessary to exclude other information being sent in other ways – for example, by fax.

Chapter 3: Electronic payment by large employers

Regulation 199: Large employers required to make specified payments electronically

933. This regulation requires large employers who have received an e-payment notice to make their monthly payments of tax by an approved electronic method, subject to any alternative arrangements made by the Inland Revenue to deal with circumstances where e-payment is impossible or impractical. It is based on regulation 42A(1) and (5) and part of regulation 42A(2) of SI 1993/744.

Regulation 200: E-payment notices and appeal

934. This regulation provides for the Inland Revenue to issue e-payment notices to large employers so that they are required under regulation 199 to pay by an approved electronic method. It is based on regulation 42A(1), (2) and (4) of SI 1993/744.

Regulation 201: Employer in default if specified payment not received by applicable due date

935. This regulation provides that a large employer who is required to pay electronically is in default if the Inland Revenue are not paid in full (by any means) by the due date and the employer has no reasonable excuse. It is based on regulation 42B(1) to (5) of SI 1993/744.

Regulation 202: Default notice and appeal

936. This regulation provides for the Inland Revenue to issue a “default notice” to a large employer who fails to pay on time. Default notices issued by the Inland Revenue (and not successfully appealed against) count towards a potential surcharge under regulation 203. It is based on regulation 42B(6) to (8) of SI 1993/744.

Regulation 203: Default surcharge

937. This regulation deals with surcharges on employers. It is based on regulation 42B(9), (10), (16) and (17) of SI 1993/744.

938. *Paragraph (1)* provides the basic liability to a surcharge.

939. *Paragraph (2)* provides that the surcharge for a tax year is the sum of the surcharges in respect of each default.

940. *Paragraphs (3) and (4)* and Table 8 provide for the surcharge in respect of each default.

941. *Paragraph (5)* gives the surcharge period for the purposes of working out the surcharge in respect of each default.

942. The effect of these provisions is that the surcharge under paragraph (1) increases progressively if employers are in default repeatedly. But employers who are not in default for a tax year start again with a clean slate.

Regulation 204: Surcharge notice and appeal

943. This regulation provides for the Inland Revenue to issue, and employers to appeal against, a surcharge notice. It is based on regulation 42B(11) to (15) of SI 1993/744.

Chapter 4: Mandatory use of electronic communications

Regulation 205: Mandatory use of electronic communications

944. This regulation provides that specified employers (see regulation 206) must use an approved electronic method to file specified information (see regulation 207). It is based on regulation 46ZC and part of regulation 46ZE(1) of SI 1993/744.

945. *Paragraph (5)* provides for the requirement to use electronic communications to apply:

- to large employers for the returns for 2004-05; and
- to large and medium sized employers for returns for 2005-06 onwards.

946. Further provisions will be made in the future for years after 2008-09.

Regulation 206: Specified employers

947. This regulation defines specified employers according to their size, with an exception on grounds of religious belief. It is based on regulation 46ZD(1) to (4) of SI 1993/744.

Regulation 207: Specified information

948. This regulation defines “specified information” as the end of year information required (if not sent electronically) in Forms P35 and P14. There is an exception where special arrangements apply under Chapter 4 of Part 7. This regulation is based on parts of regulation 46ZE(1) and (2) of SI 1993/744.

Regulation 208: E-filing notice and appeals

949. This regulation defines an “e-filing notice” and gives the employer a right of appeal against it. It is based on parts of regulation 46ZD(4) and (5) of SI 1993/744.

Regulation 209: Standards of accuracy and completeness

950. This regulation requires specified information to meet standards of accuracy and completeness set by the Board of Inland Revenue. It is based on regulation 46ZF of SI 1993/744.

Regulation 210: Penalties and appeals

951. This regulation deals with the penalties for specified employers who fail to meet the requirement to deliver specified information. It is based on regulation 46ZG and part of regulation 46ZH of SI 1993/744.

952. A penalty under this regulation is subject to the provisions of section 100 of TMA. That includes the right to appeal under section 100B of TMA. *Paragraph (3)* provides the grounds on which an appeal may be made.

953. Table 9 provides penalties only for years up to and including 2008-2009. As noted in paragraph 946, further provisions will be made in the future for later years.

Chapter 5: Methods of providing information etc

Overview

954. This Chapter deals with whether information must (if provided on paper) be in a form provided or approved by the Board or may be delivered electronically. It deals separately with employers, employees and Inland Revenue partly in order to provide a basis for possible future growth in the information which may be delivered electronically.

Regulation 211: How information must or may be delivered by employers

955. This regulation sets out whether employers must deliver information in a specified form, and whether they may do so electronically. It is based on parts of several regulations in SI 1993/744 which require the use of a form provided or approved by the Board or permit electronic transmission.

956. Table 10 lets readers see more easily *how* information must or may be delivered. This also leaves clearer the earlier regulations which provide *what* information must be supplied. It incorporates the effects of:

- *Change 36* which provides for the end of year return for simplified deduction schemes: see paragraph 294 on page 58;
- *Change 57* which provides for retirement statements to be other than in the form provided: see paragraphs 360 and 361 on page 69; and
- *Change 70* which requires the use of Form P38A: see paragraph 463 on page 84.

Regulation 212: Modifications for electronic version of Form P160

957. This regulation modifies the information to be contained in the retirement statement sent to the Inland Revenue under regulation 55 if the pension payer does so electronically. It is new.

958. The electronic equivalent of the Form P160 – the “PENNOT” – has slightly different information requirements from those provided for by regulation 55. The PENNOT can omit information which is required only for the employee (for example, for their self-assessment) but add information which helps the Inland Revenue deal promptly with the change and is available from employers’ systems at little or no extra cost when using electronic communications. This regulation provides for those differences. This is part of *Change 38*: see paragraphs 302 to 304 on page 59.

959. The differences are shown below:

<i>information</i>	<i>P160</i>	<i>PENNOT</i>
the pension payer’s Inland Revenue office number and the pension payer reference	yes	yes

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<i>information</i>	<i>P160</i>	<i>PENNOT</i>
the pensioner's name	yes	yes
the date of retirement	yes	yes
the pensioner's code immediately before retirement and whether it was being used on the non-cumulative basis	no	yes
if the pensioner's code immediately before retirement was used on the cumulative basis—		
the tax week or tax month in which the last relevant payment before retirement was made to the pensioner or, in a case falling within regulation 24, was treated as having been made,	no	yes
the total payments to date at the date of retirement, and	yes	yes
the total net tax deducted	no	yes
the total payments to date relating to the employment in question at the date of retirement, and	yes	no
the corresponding total net tax deducted	yes	no
the date on which the pension started	no	yes
any number used to identify the pensioner	yes	yes
the tax code in use for the pensioner, and whether it is being used on the non-cumulative basis	no	yes
the pensioner's address, if known	yes	yes
the pensioner's sex	no	yes
the pensioner's national insurance number, if known	yes	yes
the pensioner's date of birth, if known	no	yes
the amount of pension payable and the frequency of the payments	yes	yes
the pension payer's name	yes	no*
the pension payer's address	yes	no*

*with electronic transmission this information is already available to the Inland Revenue

Regulation 213: How information may be delivered by Inland Revenue

960. This regulation sets out what the Inland Revenue may deliver electronically to employers. It is based on parts of regulations 6, 13 and 33 of SI 1993/744 with a minor change.

961. Regulation 33 of SI 1993/744 provides for the Inland Revenue to respond to a Form P46 by sending a new employer not only the employee's code but also figures of cumulative emoluments and total net tax deducted. This allows the Inland Revenue to restore cumulative deductions (for example, where the employee has lost Parts 2 and 3 of Form P45). This is done using a notice of coding but SI 1993/744 does not provide for the Inland Revenue to issue the figures of pay and tax electronically.

Table 12 does so if the employer has opted to receive codes in this way. This is part of *Change 5* to bring the law into line with practice on the way codes are issued.

Regulation 214: How information must be provided by employees

962. This regulation sets out what information employees must provide in a form provided or approved by the Inland Revenue. It is based on parts of regulations 29, 30 and 104 of SI 1993/744.

Regulation 215: Meaning of Form P45 and P46

963. This regulation defines “Form P45”, “Parts 2 and 3” of Form P45” and “Form P46”. It is based in part on regulations 23 and 89 of SI 1993/744 and in part on the change (*Change 37*) which recognises that employees do not get copies as such of the Forms, and that Parts 2 and 3 of the Forms are the same for the two regulations. See paragraphs 297 to 299 on page 58 and 787 on page 127.

Regulation 216: Service by post

964. This regulation allows documents to be served by post. It is based on regulation 109 of SI 1993/744. It is arguably not strictly necessary as section 115(2) of TMA makes provision for any “notice or form which is to be served under the Taxes Acts” to be served by post. Section 7 of the Interpretation Act 1978 provides for the meaning of service by post. One consequence of section 7 is that proof of posting is sufficient evidence that the document has been duly served.

Part 11: Supplementary provisions

Regulation 217: Appeals: supplementary provisions

965. This regulation makes provisions for various appeals by employers in connection with the requirements for certain employers to pay and file electronically. It is based on regulation 46ZH(1), (3) and (4) of SI 1993/744.

Regulation 218: Certificate that sum due

966. This regulation deals with the evidential value of certificates issued by the Inland Revenue under certain regulations. It is based on regulations 42(8) and (9), 43(10) and (11), 47(7) and (8), 48(6), (9) and (10), 49(9) and (10), 51(4) and (5), 54(6) and (7), 55(8), (10) and (11) and 80J(3) and (4) of SI 1993/744, with a minor change.

967. This regulation provides that certificates are *sufficient* evidence. That is not the same thing as *conclusive* evidence – other evidence can displace a certificate. Similar provisions are found in other legislation – for example, section 70(2) of TMA.

968. In SI 1993/744 recovery of the amounts dealt with by this regulation is based on certificates which include the specific form of words emphasised below:

any amount of such tax which has not been paid *to him or, to the best of his knowledge and belief, to any other collector or to any person acting on his behalf or on behalf of another collector.* (*emphasis added*)

969. That form of words seems to stem from a desire to cover the possibility that payment may have been made to another collector or possibly to someone acting on behalf of any collector. A different approach is needed here as these regulations, like other legislation since the mid-1990s, do not refer to “the collector”. This regulation provides an unqualified “best of knowledge and belief” requirement for payment by the employer. That covers payments to all the persons listed in the extract from SI 1993/744 *and* to any other person.

970. This is a change in the law (*Change 125*) which increases the number of persons that the Inland Revenue must have regard to in connection with their “knowledge and belief” as to whether payment has been made. But in practice it has no effect.

971. Paragraph 27 of Schedule 1 allows certificates to carry on using the words highlighted above. That will allow certificates to carry on using the same form of words as set out in TMA for non-PAYE matters. Corresponding provisions of TMA that refer to the collector will of course be unaffected by these regulations.

Regulation 219: Payment by cheque

972. This regulation deals with the date on which a payment by cheque is treated as made. This can affect the date from or to which interest runs under various provisions. It is based on regulations 42(7A), 48(7A), 52(4), 80J(6) and 80K(3) of SI 1993/744, with a minor change.

973. There is no provision in or for regulation 53A of SI 1993/744 (Interest on tax overpaid by employer—1996-97 and subsequent years) dealing with when payments by cheque are treated as made. It appears that this was overlooked when regulation 53A was inserted in 1996. This regulation however applies to regulation 83 which is based on regulation 53A. This is a change in the law (*Change 126*) only to the extent that it prevents it being argued that some date other than the date of receipt of a cheque honoured on first presentation, should be taken as the date from which interest on overpaid tax can run. It does not change practice.

Regulation 220: Transitional provisions, savings and revocations

974. This regulation revokes instruments on which these Regulations are based, including those which introduced additions and amendments to them, subject to the savings and transitional provisions in Schedule 1.

Schedule 1: Transitional provisions and savings

Overview

975. This Schedule ensures continuity of the PAYE system from the provisions of the Regulations revoked to the provisions of these Regulations.

Part 1: General provisions

976. Paragraphs 1 to 11 ensure continuity of the law between the Regulations revoked and the rewritten legislation in these Regulations.

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
(S.I 2003/2682)*

977. These provisions are, as indicated in paragraph 12, in place of the general provisions of section 17(2)(b) of the Interpretation Act 1978.

978. Other Regulations (for example, for NICs and Student Loans) refer to the PAYE regulations. Section 17(2)(a) of the Interpretation Act 1978 applies in connection with those. It provides:

(2) Where an Act repeals and re-enacts, with or without modification, a previous enactment then, unless the contrary intention appears,—

(a) any reference in any other enactment to the enactment so repealed shall be construed as a reference to the provision re-enacted;

979. It is subject to section 23(3) which includes:

in the application of section 17(2)(a) to Acts passed or subordinate legislation made after the commencement of this Act, the reference to any other enactment includes any deed or other instrument or document.

980. The combined effect is, broadly speaking, that a reference to an old regulation must be read as a reference to the corresponding new regulation.

Part 2: Specific provisions

981. Paragraphs 15 to 28 provide savings for particular cases.

Paragraph 15: Modification of reference to payment to the Inland Revenue in regulation 68(2)

982. This paragraph deals with the way that some other Regulations refer to amounts a person is required to pay to the Collector under PAYE regulations. It allows such references to continue to work with these Regulations which require instead in regulation 68 payments to the Inland Revenue.

Paragraphs 16 and 17: FPCS information for year 2001-02

983. These paragraphs deal with an employer's obligation to provide information to someone who left employment in 2001-02 but who first asks for that information in 2004-05. They ensure that information, if any, under an arrangement that was known as the Fixed Profit Car Scheme is provided to the employee. The final year for such arrangements was 2001-02.

Paragraph 18: Due date for payments of tax in respect of tax periods ending before 6th April 2004

984. Payments for the tax period ending 5th April 2004 are due by 19th April 2004, which is after these regulations come into force. For tax periods ending after 5th April 2004 the due date is as set out in these regulations and can be 14 or 17 days after the tax period ends. The 14-day period used for tax years up to 2003-04 is essentially a transitional matter and is therefore dealt with in this Schedule.

Paragraphs 19 and 20: Interest on unpaid tax: provisions applying to tax years before 1992-93

These paragraphs save provisions for interest on tax unpaid for years up to 1991-92.

Paragraph 21: Interest on tax overdue: application of regulation 82 to tax years from 1992-93 to 2003-04

985. This paragraph preserves the position that “total net tax payable in respect of a tax year” is not a defined term for the years 1992-93 to 2003-04.

Paragraphs 22 and 23: Interest on overpaid tax: provisions applying to tax years from 1992-93 to 1995-96

986. These paragraphs save the extent to which, and way in which, interest is calculated in relation to tax years ending before 6th April 1996.

Paragraphs 24 to 26: Schedule E assessments etc

987. *Paragraph 24* preserves regulation 101 of SI 1993/744 as it applies for tax years up to 1995-96. Those are years for which separate Schedule E assessments were made.

988. *Paragraph 25* modifies regulation 188 in relation to profit related pay. The last year for which this modification can have effect is 2001-02.

989. *Paragraph 26* saves rules directed at repayment supplement on amounts repaid under Schedule E assessments for tax years up to 1995-96.

Paragraph 27: Certificate that sum due: certificate of the collector

990. This paragraph ensures that certificates relating to unpaid tax can be to the effect that tax has not been paid to a collector or to any person acting on behalf of a collector. This provision is needed for such cases as where a single certificate is given that relates both to PAYE and to another amount (such as income tax deductible on payments to sub-contractors). The certificate for the other amount may need to be expressed in terms of whether payment has been made to a collector or person acting on behalf of a collector.

Schedule 2: revocations

991. This lists the Regulations revoked (subject to the savings in Schedule 1.)

APPENDIX 1: SUMMARY OF CHANGES

The changes in the law made in the Regulations are summarised below, with references to the relevant commentary.

Change 1 in regulation 2 converts references in the rewritten legislation to an inspector or collector, and some references to the Board, into references to the Inland Revenue (meaning any officer of the Board). In principle this extends the range of officers who can carry out functions but it has no effect in practice as other legislation already enables the functions in question to be devolved. See paragraphs 59 to 64 on pages 14 to 15.

Change 2 in regulation 3 makes explicit that the “net pay arrangement” applies only to contributions to pension schemes made through the payroll and not to contributions to FSAVCS made direct by employees. It also both extends (to contributions to FSAVCS) and restricts (to avoid giving relief twice over) what can be taken into account in PAYE. This brings the legislation into line with practice. See paragraphs 72 to 81 on pages 16 to 18.

Change 3 in regulation 4 explicitly excludes from “relevant payments” (which are subject to deductions under PAYE) most social security pensions and benefits, and certain business expenses, pecuniary liabilities and notional payments. This brings the legislation into line with practice. See paragraphs 83 to 95 and 98 on pages 18 to 21.

Change 4 in regulation 7 defines special codes such as the “basic rate” (BR) and “nil tax” (NT) code. This brings the legislation into line with how in practice users refer to instructions to deduct tax at a flat rate (or not deduct tax at all) but does not affect the amount of tax deducted or the circumstances in which such codes are used. See paragraph 100 on page 21.

Change 5 in regulations 8 and 213 generalises the provisions that allow PAYE codes to be issued to an agent and/or electronically, if the employer consents, and extends them to figures of pay and tax issued to employers to restore cumulative deductions for new employees. This brings the legislation into line with practice. See paragraphs 101 on page 21 and 961 on page 152.

Change 6 in regulation 9 sets out rules for deciding whether a payment exceeds the PAYE threshold by looking at the total payments to an employee in a week, month or whatever interval they are normally paid. There are additional rules for employees with no normal interval. This brings the law more clearly into line with practice for employees paid weekly, monthly or at longer regular periods; and removes ambiguities in the law as regards other employees. It is expected to have little if any effect in practice, and none on employees paid weekly or monthly. See paragraph 111 on page 23.

Change 7 in regulations 10 to 12 makes clear which regulations apply (and which do not apply) and with what modifications to pension payers and pensioners; to agencies and agency workers; and to other payees and other payees. This removes ambiguities in the legislation. To that extent it requires payers and payees to provide information to one another, and payers to the Inland Revenue, which they might otherwise argue they are not required to provide. But it brings the legislation into line with practice at least as regards major areas such as the issue of Forms P60 to pensioners and the application of the Form P45 and P46 procedure to agencies and agency workers. See paragraphs 39 to 42 on page 11 and (in more detail) paragraphs 113 to 138 on pages 23 to 30.

Change 8 in regulation 10 provides for an agency to issue a P45 to an agency worker only when the worker stops doing work for the agency or when the agency has not paid them for 3 months. This removes what is in principle probably a requirement to issue a P45 after every job the worker undertakes for a different client; and brings the legislation into line with the practice of many agencies. See paragraph 139 on page 30.

Change 9 in regulation 14 removes the scope for a person (including the Inland Revenue) to argue that one or more of the matters which are to be taken into account when setting a code is known but should nevertheless be ignored. See paragraph 147 on page 31.

Change 10 in regulations 14, 125, 130 and 138 allows the Inland Revenue to take income of the employee other than PAYE income into account when determining a code, determining whether tax should be deducted from a reservist's pay, making a repayment to a reservist, or making a repayment to the recipient of a payment from a holiday pay fund. But the other income is not taken into account if the employee objects. This brings the law into line with practice. See paragraphs 148 on page 31, 668 on page 112, 680 on page 114, and 705 on page 116.

Change 11 in regulation 15 restricts the grounds on which the higher rate code may be determined to cases in which the Inland Revenue have reason to believe that a substantial part of the income in question, rather than of the employee's total income, will be liable to tax at the higher rate. This brings the legislation into line with practice. See paragraph 154 on page 32.

Change 12 in regulation 15 makes explicit the circumstances in which the basic rate code may be set. See paragraph 155 on page 32.

Change 13 in regulation 15 extends the availability of the nil tax code to cover all income that may be assessed in another way, rather than just Schedule D income. It is unlikely to affect practice. See paragraph 156 on page 33.

Change 14 in regulations 18 and 119 allows an employee to object to a code, and a councillor to opt to have tax deducted at the basic rate from certain allowances, even

if not “aggrieved” by the code set by the Inland Revenue. It similarly allows, in regulation 126 a reservist to object to tax being deducted at basic rate without being aggrieved. This brings the legislation into line with practice. See paragraph 165 on page 34, paragraph 643 on page 110 and paragraph 113 on page 113.

Change 15 in regulation 18 allows employees to object to and appeal against codes determined by the Commissioners and not just codes determined by the Inland Revenue. This brings the legislation into line with practice. See paragraph 166 on page 34.

Change 16 in regulation 18 makes it clear that the appeal Commissioners may determine a flat rate code as the employee’s code. This brings the legislation into line with practice. See paragraph 167 on page 34.

Change 17 in regulations 18 and 127 makes it explicit that (in the absence of an election by the taxpayer or an agreement between the taxpayer and the Inland Revenue) an appeal should be heard by the Commissioners for the area where the taxpayer lives, if the taxpayer has no place of employment. It also makes explicit that the rules in Schedule 3 to TMA may apply to allow employees and reservists to elect for a different place for a hearing. This is not expected to have any effect in practice. See paragraphs 168 on page 34 and 675 on page 113.

Change 18 in regulation 19 allows an employee to object to and appeal against the Inland Revenue’s refusal to amend the code when they do not agree that circumstances have changed. This brings the legislation into line with practice. See paragraph 173 on page 35.

Change 19 omits regulation 22 of SI 1993/744 (tax-free emoluments). This brings the legislation into line with practice. See paragraphs 182 to 195 on pages 36 to 39.

Change 20 omits from regulations 23 and 161 the unnecessary provisions that require the employer or department to ascertain intermediate figures each time they undertake a calculation – figures which are not visible to them if they use computers for PAYE. It will have no effect in practice. See paragraph 208 on page 42 and paragraph 800 on page 129.

Change 21 in regulation 23 provides for changes from the non-cumulative basis to the cumulative basis. It requires the first deduction or repayment on the cumulative basis to compare total tax to date with the total net tax deducted previously. This restores cumulation. The change removes uncertainty and brings the legislation into line with practice. See paragraph 209 on page 42.

Change 22 in regulation 23 repairs some missed consequential effects of the introduction of K codes so that deductions on the cumulative basis are maintained or restored when employees change jobs. This brings the legislation into line with guidance and practice. See paragraphs 213 to 221 on pages 43 to 44.

Change 23 in regulations 24 and 30 provides for only an employee's *main* regular payments, paid at intervals of *more* than a week, to be treated as paid later for the purposes of calculating deductions and repayments. It also prevents the date of a payment being deemed to be in the next tax year. This avoids anomalies while continuing to give employees the benefit of a full year's worth of allowances. See paragraphs 226 to 232 page 45 and 275 on page 54.

Changes 24 to 26 in regulation 25 extend the provision which achieves more even deductions when employees receive overtime or other extra payments to employees paid at intervals of less than a month; provides for repayments of tax to be made according to when a normal payment is actually due to be made to remove what would otherwise be a bar on repayments; and removes anomalies by restricting the provision to employees with regular normal payments. These changes have, so far as anyone knows, no effect in practice. See paragraphs 243 to 247 on page 49.

Change 27 in regulation 27 refers not to "the preceding 6 April" but to "the first day of the tax year" to avoid any question of treating payments made on 6 April as made a year earlier. See paragraph 257 on page 51.

Change 28 in regulations 28 and 29 (and in regulation 34) extends the aggregation of payments where PAYE is operated on the non-cumulative basis to all payment intervals rather than just periods of a week or a month. It also provides for all payments in the payment period to be treated as paid at the same time for the purposes of calculating deductions of tax to ensure the employee gets the full benefit of any allowances due. See paragraphs 261 to 263 and 271 on pages 52 and 54.

Change 29 in regulation 28 provides how employers should deduct tax on the non-cumulative basis if payments are not made at regular intervals. It brings the legislation into line with practice. See paragraph 264 on page 53.

Change 30 in regulation 31 extends the "week 53" basis (which prevents exceptionally large deductions from the pay of weekly paid employees when they are paid 53 times in a year) to employees paid at other regular intervals. It also provides an exception for employees with cumulative PAYE codes who would have no tax deducted from such payments if PAYE were operated on the cumulative basis so they continue to have no tax deducted. This brings the legislation into line with practice. See paragraphs 277 to 280 on page 55.

Change 31 in regulations 32 and 33 provides for the use of higher rate (D0) and nil tax (NT) codes determined by the appeal Commissioners as well as by the Inland Revenue. This brings the legislation into line with practice. See paragraph 283 on page 56.

Changes 32 to 34 in regulation 34 provide for a simplified PAYE scheme limited to personal employees. Changes include streamlining the record-keeping requirements, catering for those paid varying amounts and catering for those receiving more than

one payment in a week or month. They bring the legislation into line with practice. See paragraphs 286 to 289 on page 56.

Change 35 in regulations 35, 37, 66, 81, 82, 102, 185 and 188 provides for tax to be deducted or accounted for in respect of notional payments in the same way as amounts actually deducted or accounted for. It removes any room for the argument that tax in respect of notional payments is not to be dealt with in the same way as tax in respect of actual payments. It does not affect practice. See paragraphs 391 to 396 on page 73, and also paragraph 293 on page 57, paragraph 309 on page 60, paragraph 418 on page 78, paragraph 486 on page 87, paragraph 492 on page 88, paragraph 580 on page 100, paragraph 882 on page 141, and paragraph 897 on page 143.

Change 36 in regulation 35 makes special provision for the return at the end of the year by employers operating a simplified PAYE scheme. It brings the legislation into line with practice. See paragraph 294 on page 58.

Change 37 in regulations 36 and 159 makes clear there are four Parts to the Forms P45 and P45U with differences between the Parts. Other references to the Forms in these regulations use the same approach. This is in line with practice. See paragraphs 296 to 299 on page 58 and 787 on page 127.

Change 38 brings into line with practice the information required to be provided in Forms P45 under regulation 36, in Forms P46 under regulations 46 and 58, in Forms P35/P14 under regulation 73, and in other forms under other regulations. There is a full list in paragraph 303 on page 59.

Change 39 in regulation 36 provides for employers to issue Form P45 after the last day of the employment if it is not practicable to issue it on that day. Similarly regulations 38 and 39 provide for Form P45 to be completed on learning of the death of an employee or pensioner or, if that is not practicable, without unreasonable delay. Regulation 145 provides similarly for employees who use the direct collection system who must make returns when they stop getting payments. This brings the law into line with practice. See paragraphs 305 on page 60, 315 on page 61 and 734 on page 120.

Change 40 in regulation 37 requires a former employer or a person acting on behalf of a former employer to notify a former employee of payments made and tax deducted after the end of the employment. This brings the legislation into line with practice. See paragraph 309 on page 60.

Change 41 in regulations 38, 39 and 180 reduces the information required in Form P45 on the death of an employee, pensioner or incapacity benefit claimant. This allows the law and practice to be aligned without requiring employers to do more. See paragraphs 316 to 318 on page 61.

Change 42 in regulations 38 and 39 changes, in law and in some circumstances in practice, how employers and pension payers deal with payments after the death of an

employee or pensioner. For employers this means the same, simple rule applies to payments following the death or departure of an employee. It gives pension payers the same simple rule for payments in the tax year following death. See paragraphs 319 to 320 on page 62.

Change 43 in regulation 40 requires employees who receive a Form P45 after starting a new employment to give Parts 2 and 3 to the new employer immediately. This fills a possible gap in the current law and brings the legislation into line with practice. See paragraphs 322 to 325 on page 63.

Change 44 in regulation 40 makes the issue of a code by the Inland Revenue mandatory in a case where an employee sends Parts 2 and 3 of Form P45 to the Inland Revenue instead of giving them to a new employer. This brings the legislation into line with practice. See paragraph 326 on page 63.

Change 45 in regulations 42 and 51 changes the way Form P45 is used at the start of an employment to refer to the date the old employment ended rather than the date on which the last payment was made. This brings the legislation into line with practice. See paragraph 334 and on page 64.

Change 46 in regulations 42 and 51 deals explicitly with cases in which the P45 handed to a new employer relates to a year before the previous tax year. This brings the legislation into line with practice. See paragraph 335 on page 64.

Change 47 in regulations 43, 44, 52, 56 and 60 treats a code taken from Form P45 in accordance with the regulations or applied by regulations 50 and 59 as part of the Form P46 procedure as a code issued for the regulations generally. This brings the legislation into line with practice. See paragraph 336 on page 64 and 347 on page 67.

Change 48 in regulations 43, 51, 53 and 61 provides that the new employer must take into account relevant payments made by the old employer when receiving a Form P45 with a code used on the cumulative basis for various purposes in the regulations. This corrects an anomaly in SI 1993/744 and will have no effect on practice. See paragraph 338 on page 65.

Change 49 in regulations 46 and 58 allows employees, employers and pension payers to complete Form P46 before they are required to send it to the Inland Revenue. This brings the legislation into line with practice. See paragraph 341 on page 66.

Change 50 in regulations 46, 57 and 58 simplifies the conditions for the P46 procedures and avoids them leading to basic rate deductions for employees with no other employment. This brings the legislation into line with practice. See paragraphs 342 and 343 on page 66.

Change 51 in regulations 46, 57 and 58 explicitly applies the Form P46 procedures in cases in which an employee returns to the employment of a former employer. This brings the legislation into line with practice. See paragraph 345 on page 66.

Change 52 in regulations 47 and 48 requires employers to record the total payments to date made to a new employee in the deductions working sheet once the PAYE threshold is exceeded. This brings the legislation into line with practice. See paragraph 347 on page 67.

Change 53 in regulation 51 leaves employers to use in the normal way Forms P45 received before Form P46 has been sent to the Inland Revenue. This brings the legislation into line with practice. See paragraph 358 on page 68.

Change 54 in regulation 51 tells employers to destroy Forms P45 handed in by new employees after the Inland Revenue have issued codes for them. This brings the legislation into line with practice. See paragraph 359 on page 68.

Change 55 in regulation 51 omits regulation 34(4) of SI 1993/744 as effectively spent as it relates to Forms P45 from 1992-93. See paragraph 360 on page 69.

Change 56 in regulations 53 and 61 removes any doubt about the Inland Revenue issuing a code to be used on the non-cumulative basis after the submission of Form P46. See paragraph 365 on page 69.

Change 57 in regulation 55 allows retirement statements made on paper to be made other than “on the form provided”. This brings the legislation into line with practice. See paragraph 370 on page 70.

Change 58 in regulation 56 omits the requirement for the pension payer to give a pensioner who provides Form P45 a copy of Part 3 of the Form. Pensioners will already have the information on Part 1A of the P45. This brings the law into line with practice. See paragraph 375 on page 71.

Change 59 in regulation 60 requires that a pension payer who receives Form P45 after Form P46 is required to be submitted must operate the code in Form P45 on the non-cumulative basis. This brings the legislation into line with practice. See paragraph 384 on page 72.

Change 60 in regulation 64 introduces a time limit on the issue of notices to employees concerning tax repayments not made by employers because of a trade dispute. This brings the legislation into line with the timetable for Forms P60. See paragraph 402 on page 75.

Changes 61 to 63 in regulation 65 expand the provisions for unemployment and cessation repayments to make clearer they require an application and the periods for which applicants must certify that they are unemployed and not claiming benefits; and

to set out more of the information the Inland Revenue may take into account when deciding what unemployment repayment is appropriate. This brings the legislation into line with practice. See paragraphs 406 to 414 on page 76.

Change 64 in regulations 67 and 132 omits the requirement that substitute end of year certificates (Forms P60) given by employers to employees must show that the Inland Revenue has approved them. This brings the legislation into line with practice. See paragraph 420 on page 78.

Change 65 in regulation 68 puts a limit on an employer recovering amounts, due from the Inland Revenue, by offset against later payments due to the Inland Revenue. The offset is only allowed in relation to later tax periods in the tax year. This is a change in principle but it does not affect the employer's right to a repayment direct from the Inland Revenue. It should have little or no effect in practice. See paragraph 431 on page 80.

Change 66 in regulation 70 alters the definition of "S" (deductions from payments to subcontractors). The change potentially reduces the number of employers who have reasonable grounds for believing that their average monthly amount is less than £1,500 so that they are entitled to account for tax on a quarterly basis. But it is likely that few, if any, employers will be affected and the change corrects an obvious error. See paragraph 438 on page 81.

Change 67 in regulation 71 makes explicit that in "trade dispute cases" relief is given in a tax period for tax actually repayable to employees before relief is available for amounts that are not yet repayable to employees. Reversing this order of priority could result in an employer having to pay more tax than the employer can deduct. This may be a change in principle but it is not a change in practice. See paragraph 447 on page 82.

Change 68 in regulation 71 alters the definition of Q (was B in regulation 40(2) and 41(2) of SI 1993/744) to prevent an employer being required to repay relief, which was not actually given, in connection with a trade dispute. This may be a change in principle but it is not a change in practice. See paragraph 450 on page 83.

Change 69 in regulation 72 makes it clearer that a direction to recover tax from an employee must relate to tax that an employer did not deduct from payments to the particular employee concerned. It is not a change in practice. See paragraph 453 on page 83.

Change 70 in regulation 74 and in regulation 211 sets out the information required in the return of relevant payments not liable to deduction of tax, the form it must take and the time by which it is required. It does not change practice. See paragraph 463 on page 84.

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Change 71 in regulations 77, 78, 97, 117 and 147 makes explicit the date on which the periods commence for returns to be delivered or actions taken. Regulations 47(2), 48(6), 55(5)(b), 80N(5)(b) and 104(6)(a) of SI 1993/744 are silent on this point. See paragraph 471 on page 85.

Change 72 in regulation 77(5) and regulation 78(5) limits the treatment of consecutive tax periods as a single tax period in regulation 77 (return and certificate if tax may be unpaid) and regulation 78 (notice and certificate if tax may be unpaid). Such treatment applies only for the purpose of those regulations and the consecutive tax periods must fall in the same tax year. This change has no effect in practice. See paragraph 473 on page 86.

Change 73 in regulation 78 allows a notice under regulation 78 (notice and certificate if tax may be unpaid) to cover consecutive tax periods even if an amount has been paid for any of those periods. This brings it into line with regulation 77 (return and certificate if tax may be unpaid) and will not affect what can already be achieved in practice. See paragraph 479 on page 86.

Change 74 in regulation 82 prevents interest being charged on amounts for which an employer has been relieved of liability under regulation 81(4). This is a change in principle but it will have no effect in practice. See paragraph 493 on page 88.

Change 75 in regulation 82 defines the “total net tax payable” for a year on which an employer may be liable to pay interest. It is a change in the law to the extent that it prevents someone arguing that interest should be charged on a different amount. See paragraph 492 on page 88.

Change 76 in regulation 83 provides an explicit date to which interest runs on repayments to an employer. It corrects an oversight and should have no effect in practice. See paragraph 497 on page 89.

Change 77 in regulations 84 and 109 restricts recovery procedures to those available under Part 6 of TMA. This will have no effect in practice. See paragraph 501 on page 89.

Change 78 in regulation 86 limits the P11D/P9D return of payments made on behalf of the employee to those that are made by the employer or a related third party. This is a change in the law that is likely to have little, if any, effect in practice. But to the extent that it has an effect in practice, it seems right to place a reporting obligation under regulation 95 on the third party making the payment. See paragraph 511 on page 91.

Change 79 in regulation 92 clarifies that there is no exclusion from regulation 92 (termination awards: return where award changes) solely for changes made from 6 April to 6 July of the tax year following that in which the award is made. It is expected to have no effect in practice. See paragraph 538 on page 95.

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Change 80 in regulation 92 removes a requirement to make a return under regulation 92 (termination awards: return where award changes) where the changed award does not exceed the £30,000 threshold. It is expected to have no effect in practice. See paragraph 540 on page 95.

Change 81 in regulation 97 gives as the default location for inspection for all PAYE records in the United Kingdom the place in the UK where they are normally kept. It is unlikely to be a change in practice. See paragraph 550 on page 96.

Change 82 in regulation 89 allows employers more flexibility as to when they may make or revoke an election to operate separate PAYE schemes, and as to how they allocate employees to PAYE schemes after acquiring new employees. This does not affect the tax deducted by the employer or the information given to employees and the Inland Revenue. It is not expected to have any effect in practice. See paragraphs 561 and 562 on page 97.

Change 83 in regulation 90 requires employers to inform the Revenue when they become aware that an organised arrangement for sharing tips is in existence, giving the name of the person who shares out the tips if known. This brings the legislation into line with practice. See paragraph 568 on page 98.

Change 84 in regulation 101 makes clear that when a person (an “agent”) paying net PAYE income on behalf of another (“the principal”) dies it is the principal who is responsible for implementing the PAYE regulations whether the agent is succeeded by another agent or not. This change is likely to have little, if any, practical effect because it only applies to those paying on behalf of others; and an employer is already treated by section 687 of ITEPA as making any payments made by an intermediary if the intermediary does not operate PAYE. See paragraph 573 on page 99.

Change 85 in regulation 103 removes ambiguity about who does what following the death of an employer and a succession to the business by making explicit that both the provisions for the death of an employer and the provisions for successions can apply. This has no effect on tax deducted from payments to employees or the information they receive. See paragraphs 582 to 584 on page 101.

Change 86 in regulation 102 makes explicit that the new employer is liable for the tax on payments made by the new employer before the succession; and that the old employer remains liable to deduct tax from payments made by the old employer after the succession. This is expected to have no effect in practice as such payments are rare and the results provided for follow the general rule that the person making a payment is responsible for deducting tax from the payment. See paragraphs 578 and 579 on page 100.

Change 87 in regulations 101 and 102 makes clear who is to account for tax in respect of notional payments after the death of an employer and/or succession to a business. It is a change in the law to the extent that it removes the scope to argue that no one is

responsible for tax which was to be accounted for in respect of notional payments made before the death or succession. But it is expected to have no practical effect as the point has not been known to arise in practice. See paragraph 581 on page 100.

Change 88 in regulation 108(1)(b) and (3)(b) makes it explicit that employers must gross-up the income tax on earnings covered by the PSA. It has no practical effect because the Inland Revenue will not enter a proposed agreement that does not provide for “grossing-up”. See paragraph 611 on page 105.

Change 89 in regulation 117 limits to authorised officers the persons who can inspect PSA records. But it has no effect in practice because it is only authorised officers who carry out inspections of PSA records. See paragraph 628 on page 107.

Change 90 in regulation 118 extends the option for deduction at the basic rate offered to councillors by Chapter 1 of Part 7 beyond attendance allowance to the other allowances a councillor may receive (but not to expenses payments). This brings the law into line with practice. See paragraph 637 on page 109.

Change 91 in regulations 121, 123, and 135 deems a basic rate code to be issued when councillors opt for deduction at the basic rate from payments of certain allowances, when tax is deducted at basic rate from relevant payments to reservists, and when payments are made by holiday pay funds. This change overcomes any difficulty in applying the other PAYE regulations where they refer to the employee’s code. It is in line with the known practice of the MOD for reservists and is expected to have little or no effect in practice on other payers. See paragraph 649 on page 110, paragraph 663 on page 112, and paragraph 701 on page 116.

Change 92 in regulation 122 removes the Merchant Navy Reserve, the Royal Fleet Reserve, the Army Reserve, and the Air Force Reserve (except the University Air Squadron) from the scope of this regulation. The first-named has been disbanded, and the members of the other forces are already paid under PAYE procedures, so this change brings the law into line with practice. See paragraph 662 on page 112.

Change 93 in regulation 132 requires end of year certificates to be completed for and given to anyone who has served as a reservist in the tax year and for whom a deductions working sheet was prepared, even if no tax has been deducted from payments made to them in the year. This change brings the law into line with practice, and also meets a practical need for reservists to have information for Self Assessment and tax credits. See paragraph 684 on page 114.

Change 94 in regulation 138 omits unnecessary provisions now that the earnings basis is no longer reflected in this regulation. See paragraph 707 on page 117.

Change 95 in regulation 141 makes explicit that an employer cannot be compelled to operate special arrangements. See paragraph 714 on page 118.

Change 96 in regulation 142 makes explicit that an employee cannot be compelled to operate direct collection arrangements. See paragraph 716 on page 118.

Change 97 in regulations 142 to 147 brings the regulations into line with practice on “direct collection”. This essentially corrects an error in 1992 in adapting direct collection arrangements for the introduction of K codes. See paragraph 725 on page 119.

Change 98 in regulation 144 provides for an employee to be entitled to a repayment under direct collection arrangements. See paragraph 732 on page 120.

Change 99 in regulation 148 limits Chapters 1 and 2 of Part 8 explicitly to JSA. This brings the legislation into line with what it has always been taken to mean. See paragraph 756 on page 123.

Change 100 in regulation 148 distinguishes between JSA payments subject to the “normal” PAYE regulations for JSA and those subject to the special procedures for JSA for share fishermen and some others. This replaces distinctions which were appropriate for unemployment benefit but do not fit well with JSA. It brings the legislation into line with practice. See paragraph 759 on page 123.

Change 101 in regulation 150 makes explicit which regulations in other Parts apply and with what modifications to payments of JSA within Chapter 1 of Part 8. This brings the legislation into line with practice. See paragraph 762 on page 124.

Change 102 in regulation 154 allows 14 days for the department to prepare a deductions working sheet for a JSA claimant if it gets no Form P45 from the claimant. This fills a gap in the legislation and brings it into line with practice. See paragraph 769 on page 125.

Change 103 in regulation 158 provides that a JSA award ends for PAYE purposes when entitlement to JSA ends. This replaces legislation which was better suited to unemployment benefit than JSA. It brings the legislation into line with practice. See paragraph 781 on page 126.

Change 104 in regulation 159 requires the department to provide JSA claimants and the Inland Revenue the information given in practice in Forms P45U Parts 1 and 1A and in Parts 2 and 3 of Form P45. See paragraph 794 on page 128.

Change 105 in reg 161 makes clearer the tax calculation the department makes at the end of a JSA award or tax year. It removes scope for argument about how the calculation should be done, especially where the claimant has a “K” code, but is in line with practice and so is expected to have no practical effect. See paragraph 807 on page 130.

Change 106 in regulation 163 requires the department to indicate in Form P45U Part 1 that a JSA claimant has died. This brings the legislation into line with practice. See paragraph 812 on page 130.

Change 107 in regulation 167 prevents JSA claimants paid by employers (if any JSA were ever to be paid by employers) having taxable JSA reported twice – both by the employer and by the department. See paragraph 823 on page 131.

Change 108 in regulation 169 defines the end of a “Chapter 2 award” as the end of entitlement to JSA which depends on regulations 17 or 156 of the JSA Regulations. This brings the legislation into line with practice. See paragraph 825 on page 131.

Change 109 in regulation 170 introduces the same time limit for the department to provide “Chapter 2 claimants” with details of JSA paid as for other claimants (and employees generally). This brings the legislation into line with practice. See paragraph 828 on page 132.

Change 110 in regulation 171 requires the department, on the death of a “Chapter 2” JSA 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. This fills a gap where SI 1993/744 makes no provision. See paragraph 831 on page 132.

Change 111 in regulation 172 requires 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 is made under regulation 170 or 171. This brings the legislation into line with practice. See paragraph 834 on page 133.

Change 112 in regulation 173 defines “single-income claimants” to exclude incapacity benefit claimants who also have other PAYE or income from self-employment. Payments of taxable incapacity benefit of single-income claimants are subject to deduction of tax in accordance with Chapter 3. This brings the legislation into line with practice. See paragraph 843 on page 135.

Change 113 in regulation 173 makes explicit which regulations in other Parts apply to incapacity benefit and with what modifications. This brings the legislation into line with practice. See paragraph 847 on page 135.

Change 114 in regulation 176 requires the returns that the department makes when claimants are first paid taxable incapacity benefit to reflect all the information the department provides in practice. This helps the Inland Revenue to identify claimants and set an accurate PAYE code for them. This change brings the law into line with practice. See paragraph 852 on page 136.

Change 115 in regulation 177 requires 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. This brings the legislation into line with practice. See paragraph 855 on page 137.

Change 116 in regulation 179 limits the requirement on the Inland Revenue to issue a code on receipt of a return under regulation 164 to “single-income claimants”. This brings the legislation into line with practice. See paragraph 859 on page 137.

Change 117 in regulation 179 provides for the Inland Revenue to issue PAYE codes to the department for claimants other than “single-income claimants” if it considers it is impractical to collect tax on the taxable incapacity benefit by other means. This brings the legislation into line with practice. See paragraph 860 on page 137.

Change 118 in Part 8 where Chapter 4 makes specific provision for information about payments of taxable income support to be given to claimants and the Inland Revenue. There are no such provisions in SI 1993/744. See paragraph 868 on page 139.

Change 119 in regulation 185 provides an explicit cap on the extent to which credit can be given under Self Assessment for tax that was not actually deducted from the taxpayer or was not actually accounted for on notional payments. This may be a change in principle but it is one that should have limited effect in practice and be favourable to most taxpayers who are affected. See paragraph 886 on page 142.

Change 120 in regulations 186 and 187 provides for PAYE codes to be adjusted for underpayments and overpayments of tax in a self-assessment unless the taxpayer objects. This brings the legislation into line with practice. See paragraph 892 on page 143.

Change 121 in Part 10 omits specific provisions for Electronic Data Interchange (EDI) and the internet service for PAYE leaving them (and any other) methods of electronic communications to be approved by the Board of Inland Revenue. This does not affect the use of the services in practice. See paragraphs 907 to 915 on page 144.

Change 122 in regulation 189 provides for official computer systems to be maintained by or on behalf of the Board of Inland Revenue, in addition to its officers. This has no practical effect. See paragraph 917 on page 146.

Change 123 in regulation 193 allows the Inland Revenue to produce as proof of delivery of information only information delivered by approved methods. See paragraph 925 on page 147.

Change 124 in regulations 196 and 197 provides for proof of the time of despatch of information and payments by electronic communications *from* the Inland Revenue as well as *to* the Inland Revenue in order to remove doubt. See paragraph 929 on page 148

*This commentary refers to the Income Tax (Pay As You Earn) Regulations 2003
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Change 125 in regulation 218 and increases the number of persons that the Inland Revenue must have regard to in connection with their “knowledge and belief” as to whether payment has been made. This has no effect in practice. See paragraphs 969 and 970 on page 154.

Change 126 in regulation 219 applies the rules in other regulations in SI 1993/744 about cheques and dates of payment to the Inland Revenue to regulation 83. See paragraph 973 on page 154.

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APPENDIX 2: SUPPORTING DOCUMENTS

The documents listed below are available from the internet (www.inlandrevenue.gov.uk/rewrite) or from:

Basil Rajamanie
Tax Law Rewrite Project
Inland Revenue
Room 826
South West Wing, Bush House
Strand
London WC2B 4RD

Progress reports

The table below lists the progress reports on the PAYE regulations (together with draft regulations and commentaries on them) made to the project's Consultative and Steering Committees. These reports were also made available to others who expressed an interest. They were also made available on the internet with an invitation to others for views.

<i>Title</i>	<i>Date</i>	<i>Subject</i>
1st Progress Report	October 2001	approach and timetable
2nd Progress Report	April 2002	Regulations 3 to 39 of SI 1993/744
3rd Progress Report	July 2002	Regulations 40 to 55
4th Progress Report	October 2002	Regulations 80A to 80N
5th Progress Report	November 2002	Regulations 81 to 99H
6th Progress Report	December 2002	Regulations 99 to 108
7th Progress Report	January 2003	Regulations 56 to 80

Draft regulations, with commentary and partial regulatory impact assessment

The project issued in April 2003 for formal consultation a complete draft of the regulations, commentary and table of origins; and a partial regulatory impact assessment.

Response Document

A document giving a summary of responses to the draft regulations and the proposed action on them was made available in October 2003. The response document includes

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a summary of changes suggested in the course of consultation but not made in the Regulations.

Regulatory Impact Assessment

A final regulatory impact assessment, taking account of comments from users and others, was completed in October 2003.

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(S.I 2003/2682)*

APPENDIX 3: RESPONSES TO DRAFT REGULATIONS

Comments on the draft regulations published in April 2003 and earlier drafts were received from:

- Thorn Baker Ltd
- NW Brown Employee Benefits
- Ministry of Defence
- Mencap
- Low Incomes Tax Reform Group
- London Society of Chartered Accountants
- Keith Gordon
- John Jeffrey-Cook
- Institute of Payroll and Pensions Management
- Institute of Directors
- Institute of Chartered Accountants of Scotland
- Institute of Chartered Accountants in England and Wales
- Department for Work and Pensions
- Department for Social Development in Northern Ireland
- Confederation of British Industry
- Chartered Institute of Taxation
- Association of British Insurers
- A Gillingham & Co

This list excludes:

- those who commented only orally in the course of discussion; and
- those who asked that their comments be treated as confidential.

INCOME TAX (PAY AS YOU EARN) REGULATIONS 2003 (S.I. 2003/2682)

TABLE OF ORIGINS

The following abbreviations are used in the Table—

Statutory Instruments

S.I. 1993/744	The Income Tax (Employments) Regulations 1993
S.I. 1994/1212	The Income Tax (Employments) (Notional Payments) Regulations 1994

Other Abbreviations

Change 1 etc.	Changes as listed in the commentary
ITEPA	The Income Tax (Earnings and Pensions) Act 2003 (c. 1)
r.	Regulation
s.	section

<i>Provision</i>	<i>Origins</i>
1	Drafting.
2	
(1)	
“additional pay”	S.I. 1993/744 r.2(1) (“additional pay”).
“agency”	Change 7.
“agency worker”	Change 7.
“approved method of electronic communications”	S.I. 1993/744 r.2(1) (“approved”).
“basic rate”	S.I. 1993/744 r.2(1) (“basic rate”).
“Board of Inland Revenue”	ITEPA s.720(2); S.I. 1993/744 r.2(1) (“the Board”).
“code”	S.I. 1993/744 r.2(1) (“code”).
“cumulative basis”	Drafting.
“deductions working sheet”	S.I. 1993/744 r.2(1) (“deductions working sheet”); Change 1.
“earnings”	ITEPA s.62, s.721(7).
“electronic communications”	S.I. 1993/744 r.2(1) (“electronic communications”) (part).
“employee’s code”	S.I. 1993/744 r.2(1) (“code authorisation”) (part).
“employer reference”	Drafting.
“employer’s PAYE reference”	Drafting.
“employment”	ITEPA s.4, s.5; Change 7.
“excluded business expenses”	Change 3.

<i>Provision</i>	<i>Origins</i>
“family” and “family or household”	ITEPA s.721(4), (5).
“free pay”	S.I. 1993/744 r.2(1) (“free emoluments”).
“general earnings”	ITEPA s.7(3).
“higher rate”	S.I. 1993/744 r.2(1) (“higher rate”).
“ICTA”	S.I. 1993/744 r.2(1) (“the Taxes Act”).
“Inland Revenue”	S.I. 1993/744 r.2(1) (“inspector”, “collector”); Change 1.
“Inland Revenue office”	Drafting.
“Inland Revenue office number”	Drafting.
“ITEPA”	Drafting.
“national insurance number”	Drafting.
“net PAYE income”	S.I. 1993/744 r.2(1) (“emoluments”) (part).
“non-cumulative basis”	Drafting.
“notice”	S.I. 1993/744 r.2(1) (“notice”); drafting.
“notional payment”	S.I. 1994/1212 r.13(1) (“notional payment”).
“objects”	Drafting.
“official computer system”	S.I. 1993/744 r.2(1) (“official computer system”) (part).
“other payee”	S.I. 1993/744 r.2(1) (“employee”) (part); Change 7.
“other payer”	S.I. 1993/744 r.2(1) (“employer”) (part); Change 7.
“overriding limit”	S.I. 1993/744 r.2(1) (“overriding limit”).
“PAYE income”	ITEPA s.683.
“PAYE pension income”	ITEPA s.683(3); S.I. 1993/744 r.2(1) (“pension emoluments”).
“PAYE threshold”	S.I. 1993/744 r.2(2) (part), r.28(2); Change 6.
“payee”	S.I. 1993/744 r.2(1) (“employee”) (part); Change 7.
“payer”	S.I. 1993/744 r.2(1) (“employer”) (part); Change 7.
“pension”	Change 7.
“pensioner”	S.I. 1993/744 r.2(1) (“employee”) (part); Change 7.
“pension payer”	S.I. 1993/744 r.2(1) (“employer”) (part); Change 7.
“PSA”	Drafting.
“qualifying general earnings”	Drafting.
“reckonable date”	S.I. 1993/744 r.51(3) (part).
“relevant payments”	Drafting.
“relevant pension payments”	Drafting.
“reliefs from income tax”	S.I. 1993/744 r.2(1) (“reliefs from income tax”); Change 2.
“specified date”	Drafting.
“starting rate”	S.I. 1993/744 r.2(1) (“starting rate”).
“taxable payments”	S.I. 1993/744 r.2(1) (“taxable emoluments”).
“tax month”	S.I. 1993/744 r.2(1) (“income tax month”).
“tax not deducted because of the overriding limit”	S.I. 1993/744 r.2(1) (“tax not deducted”).
“tax period”	S.I. 1993/744 r.2(1) (“income tax period”).
“tax quarter”	S.I. 1993/744 r.2(1) (“income tax quarter”).

<i>Provision</i>	<i>Origins</i>
	“tax tables” S.I. 1993/744 r.2(1) (“tax tables”).
	“tax week” Drafting.
	“tax year” S.I. 1993/744 r.2(1) (“year”).
	“TMA” S.I. 1993/744 r.2(1) (“the Management Act”).
	“total additional pay to date” S.I. 1993/744 r.2(1) (“cumulative additional pay”).
	“total free pay to date” S.I. 1993/744 r.2(1) (“cumulative free emoluments”).
	“total net tax deducted” S.I. 1993/744 r.2(1) (“total net tax deducted”); S.I. 1994/1212 r.13(3).
	“total payments to date” S.I. 1993/744 r.2(1) (“cumulative emoluments”).
	“total tax to date” S.I. 1993/744 r.2(1) (“cumulative tax”).
	“total taxable payments to date” S.I. 1993/744 r.2(1) (“cumulative taxable emoluments”).
	“trade dispute” S.I. 1993/744 r.2(1) (“trade dispute”).
	(2) ITEPA s.684(7B).
3	(1) S.I. 1993/744 r.2(1) (“emoluments”) (part); drafting.
	(2) S.I. 1993/74 r.2(1) (“allowable superannuation contributions”, “emoluments”); Change 2.
4	(1), (2) S.I. 1993/744 r.2(3) (part); Change 3.
5	(1)- (5) Change 3.
6	S.I. 1993/744 r.2(1) (“pension emoluments”).
7	(1) S.I. 1993/744 r.2(1) (“code”) (part); drafting.
	(2) r.2(1) (“code”) (part); Drafting.
	(3) Drafting.
	“basic rate code” Change 4.
	“higher rate code” r.9(1) (part), (3) (part); Change 4.
	“nil tax code” r.9(2) (part), (3) (part); Change 4.
	“emergency code” r.29(2) (part), (3) (part), 30(2) (part), (3) (part), r.32 (part), r.84(7) (part).
	“emergency codes” IB S.I. 1993/744 r.98C(1) (part), (3), (4).
8	(1) S.I. 1993/744 r.2(1) (“code authorisation”), r.13(6) (part), r.104(1) (part); Change 4.
	(2) S.I. 1993/744 r. 6(4) (part); Changes 1, 5.
9	(1) S.I. 1993/744 r.28(1) (part); Change 6.
	(2) Change 6.
	(3) S.I. 1993/744 r.28(1) (part); Change 6.

<i>Provision</i>	<i>Origins</i>
Table 1	S.I. 1993/744 r.18 (part), r.28(1) (part); Change 6.
(4)	S.I. 1993/744 r.18 (part), r.28(1) (part); Change 6.
(5), (6)	S.I. 1993/744 r.28(1) (part); Change 6.
(7), (8)	S.I. 1993/744 r.28(2) (part).
(9)	S.I. 1993/744 r.28(1) (part); Change 6.
10	
(1)	r.2(1) (“employee”) (part), (“employer”) (part); Change 7.
(2), (3)	Changes 7, 8.
(4)	r.2(1) (“employee”) (part), (“employer”) (part); Change 7.
11	
(1), (2)	r.2(1) (“employee”) (part), (“employer”) (part); Change 7.
12	
(1), (2)	r.2(1) (“employee”) (part), (“employer”) (part); Change 7.
(3)	Drafting; Change 7.
(4)	r.2(1) (“employee”) (part); Change 7.
13	S.I. 1993/744 r.7(1) (part); drafting; Change 1.
14	
(1)	S.I. 1993/744 r.7(1) (part), (2) (part); Changes 1, 9, 10.
(2)	S.I. 1993/744 r.7(2) (part), (3); Change 1.
(3)	Change 120.
15	
(1)	S.I. 1993/744 r.9(1); Changes 1, 4, 11.
(2)	Change 12.
(3)	S.I. 1993/744 r.9(2); Changes 1, 4, 13.
(4)	Drafting.
16	
(1)	S.I. 1993/744 r.8(1); Change 1.
(2)	S.I. 1993/744 r.8(2); Change 1.
17	
(1)	S.I. 1993/744 r.10(1); Change 1.
(2)	S.I. 1993/744 r.10(1), (2).
18	
(1)	S.I. 1993/744 r.11(1); Changes 14, 15.
(2), (3)	S.I. 1993/744 r.11(2) (part); Change 1.
(4)	S.I. 1993/744 r.11(5); Change 16.
(5)	S.I. 1993/744 r.11(3); Change 17.

<i>Provision</i>	<i>Origins</i>
19	
(1), (2)	S.I. 1993/744 r.12(1) (part); Change 1.
(3)	S.I. 1993/744 r.12(2); Change 1.
(4)	S.I. 1993/744 r.12(3).
(5)	S.I. 1993/744 r.12(4).
(6)	Change 18.
20	
(1)	S.I. 1993/744 r.13(1) (part); Change 1.
(2)	S.I. 1993/744 r.13(1) (part), (6) (part); r.6(4) (part).
(3)	S.I. 1993/744 r.13(2).
(4)	S.I. 1993/744 r.13(4) (part).
(5), (6)	S.I. 1993/744 r.13(4) (part); Change 1.
(7)	S.I. 1993/744 r.8(5), r.13(5); Change 1.
(8)	S.I. 1993/744 r.13(6) (part).
21	
(1)	S.I. 1993/744 r.6(1), (2).
(2)	S.I. 1993/744 r.6(3).
22	S.I. 1993/744 r.14(1) (part), drafting.
23	
(1)	Drafting.
(2)	S.I. 1993/744 r.14(1) (part), (2) (part), r.15 (part); drafting.
(3)	S.I. 1993/744 r.14(1) (part); Change 20.
(4)	S.I. 1993/744 r.14(2), r.15 (part).
(5)	S.I. 1993/744 r.14(2) (part); r.15 (part).
(6)	S.I. 1993/744 r.14(3); drafting.
(7)	S.I. 1993/744 r.14(4).
(8)	S.I. 1993/744 r.2(1) (“previous cumulative tax”).
(9)	Change 21.
(10)	Change 22; drafting.
24	
(1) – (4)	S.I. 1993/744 r.18 (part); Change 23.
(5)	S.I. 1993/744 r.18 (part).
(6)	Drafting.
25	
(1)	S.I. 1993/744 r.19(1) (part); Changes 25; 24.
(2)	S.I. 1993/744 r.19(2) (part); Change 26.
(3)	S.I. 1993/744 r.19(1) (part), (2) (part); Change 26.
(4)	S.I. 1993/744 r.19(2) (part); Change 26.
(5)	S.I. 1993/744 r.17(1) (part); Change 30.
(6) – (8)	Change 25.
(9)	Change 30.
26	
(1)	S.I. 1993/744 r.17(1) (part); drafting.
(2)	S.I. 1993/744 r.17(2) (part).

<i>Provision</i>	<i>Origins</i>
27	
(1)	S.I. 1993/744 r.17(2) (part); Change 27.
(2)	Drafting.
28	
(1)	Drafting.
(2)	S.I. 1993/744 r.17(2) (part); r.18 (part); Change 28.
(3), (4)	Change 29.
(5)	S.I. 1993/744 r.14(2) (part).
29	
(1)	S.I. 1993/744 r.21 (part); Change 28.
(2)	S.I. 1993/744 r.14(2) (part), r.21 (part); Change 28.
(3)	Drafting.
(4)	S.I. 1993/744 r.21 (part).
(5)	S.I. 1993/744 r.14(2) (part), r.21 (part).
30	
(1) – (3)	S.I. 1993/744 r.18 (part); Change 23.
(4)	S.I. 1993/744 r.18 (part).
31	
(1)	S.I. 1993/744 r.17(1) (part); Change 30.
(2)	Change 4; 30.
(3)	Change 30.
(4)	S.I. 1993/744 r.17(1) (part); Change 30.
(5)	Change 30.
32	S.I. 1993/744 r.16(1) (part), (2) (part); Changes 4, 31.
33	
(1)	S.I. 1993/744 r.16(1) (part), (2) (part); Changes 4, 31.
(2)	S.I. 1993/744 r.16(3); Changes 1, 4, 31.
34	
(1)	S.I. 1993/744 r.20(1) (part), (2) (part); Changes 1, 32.
(2)	S.I. 1993/744 r.21 (part), r.14(2) (part); Changes 28, 33.
(3)	S.I. 1993/744 r.2(1) (“simplified tax tables”) (part), r.20(1) (part); Change 32.
(4)	S.I. 1993/744 20(4); Changes 28, 34.
35	
(1)	S.I. 1993/744 r.20(2) (part); Change 32.
(2)	S.I. 1993/744 r.20(2) (part); S.I. 1994/1212 r.13(1), (2); Change 35.
(3)	S.I. 1993/744 r.20(2) (part); Change 1.
(4)	S.I. 1993/744 r.20(3) (part); Change 1.
(5)	S.I. 1993/744 r.43(1) (part), (1A) (part), (2) (part), (3) (part), Changes 1, 36.
(6)	S.I. 1993/744 r.43(4) (part); Changes 1, 36.
(7)	Change 36.

<i>Provision</i>	<i>Origins</i>
(8)	Drafting.
36	
(1)	S.I. 1993/744 r.23(1) (part).
(2)	S.I. 1993/744 r.23(1) (part), (3) (part); Changes 1, 37, 39.
(3)	S.I. 1993/744 r.26(1) (part).
(4)	S.I. 1993/744 r.23(1) (part), (3) (part); Change 37.
Table 2	S.I. 1993/744 r.23(1) (part), (2), (3) (part); Changes 37, 38.
(5)	Drafting.
37	
(1)	S.I. 1993/744 r.24(1).
(2)	S.I. 1993/744 r.24(2) (part).
(3)	S.I. 1993/744 r.24(2) (part); Change 7.
(4)	S.I. 1993/744 r.24(2) (part); drafting.
(5)	S.I. 1993/774 r.24(2) (part).
(6)	S.I. 1993/744 r.24(2) (part); S.I. 1994/1212 r.13(1), (2); Change 35.
(7)	Change 40.
38	
(1)	S.I. 1993/744 r.27(1) (part); Changes 1, 37, 41.
(2)	S.I. 1993/744 r.27(1) (part); Change 39.
(3)	S.I. 1993/744 r.27(2) (part).
(4)	Change 42.
39	
(1)	S.I. 1993/744 r.27(1) (part); Changes 1, 37, 41.
(2)	S.I. 1993/744 r.27(1) (part); Change 39.
(3)	S.I. 1993/744 r.27(2) (part); Change 42.
(4)	S.I. 1993/744 r.27(2) (part).
(5)	Change 42.
40	
(1)	S.I. 1993/744 r.25(1) (part); Change 37.
(2)	Changes 37, 43
(3)	S.I. 1993/744 r.25(11) (part).
(4)	S.I. 1993/744 r.25(11) (part); Changes 1, 37, 43.
(5)	S.I. 1993/744 r.25(11) (part); Changes 1, 44.
41	Drafting.
42	
(1)	S.I. 1993/744 r.25(1) (part), r.34(2) (part); drafting; Change 37.
(2)	S.I. 1993/744 r.25(3) (part); Change 37
(3)	S.I. 1993/744 r.25(1); Changes 37, 45.
(4), (5)	S.I. 1993/744 r.25(8) (part); Changes 37, 45.
(6)	Changes 37, 45, 46.
(7)	S.I. 1993/744 r.25(2) (part); Changes 37, 38.

<i>Provision</i>	<i>Origins</i>
(8)	S.I 1993/94 r.25(2) (part); Change 37.
43	
(1)	S.I. 1993/744 r.25(3) (part); Change 37.
(2)	S.I. 1993/744 r.27(1) (part); Change 37.
(3)	S.I. 1993/744 r.25(3) (part); Change 37.
(4)	S.I 1993/744 r.25(4) (part).
(5), (6)	S.I. 1993/744 r.25(4) (part); Change 37.
(7)	S.I. 1993/744 r.25(4) (part), r.34(2) (part); Change 37.
(8)	S.I. 1993/744 r.25(5) (part).
(9)	S.I. 1993/744 r.25(5) (part); Change 48.
(10)	S.I. 1993/744 r.25(5) (part); Change 22.
(11)	S.I. 1993/744 r.25(7); drafting; Change 37.
(12)	S.I. 1993/744 r.25(9); Changes 37, 47.
44	
(1)	S.I. 1993/744 r.25(8) (part); drafting; Change 37.
(2)	S.I. 1993/744 r.25(9); Changes 37, 47.
45	
(1)	S.I. 1993/744 r.25(8) (part), r.32 (part).
(2)	S.I 1993/744 r.25(8) (part), r.32 (part); Change 37
46	
(1)	S.I. 1993/744 r.28(1) (part), (4) (part); Changes 37, 50.
(2)	S.I. 1993/744 r.29(1) (part), r.30(1) (part); drafting; Change 49.
(3)	S.I. 1993/744 r.28(1A) (part), (1B) (part); Changes 1, 38, 49.
(4)	S.I. 1993/744 r.28(1A) (part); Changes 1, 49.
(5)	S.I 1993/744 r.28(1B) (part); Change 38.
(6)	Change 51.
(7)	S.I. 1993/744 r.28(4) (part).
47	
(1)	S.I. 1993/774 r.29(1) (part).
(2)	S.I. 1993/744 r.28(1) (part), (1A) (part), r.29(2); Changes 1, 52.
(3)	S.I. 1993/744 r.29(3) (part).
48	
(1)	S.I. 1993/744 r.30(1) (part).
(2)	S.I. 1993/744 r.28(1) (part), (1A) (part), r.30(2); Changes 1, 52.
(3)	S.I. 1993/744 r.30(3) (part).
49	
(1)	S.I. 1993/744 r.31(1).
(2)	S.I. 1993/744 r.28(1) (part), (1A) (part), r.31(2); Changes 1, 50, 52.
(3)	S.I. 1993/744 r.31(4) (part).

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50	
(1)	S.I. 1993/744 r.32 (part); Changes 1, 47.
(2)	S.I. 1993/744 r.32 (part); Change 47.
51	
(1)	S.I. 1993/744 r.34(1) (part); Change 37.
(2)	S.I. 1993/744 r.34(1) (part), (2) (part); Changes 1, 37, 53.
(3)	S.I. 1993/744 r.34(1) (part); Changes 1, 37.
(4)	Changes 37, 54.
(5)	S.I. 1993/744 r.34(2) (part); Changes 37, 45, 47.
(6)	S.I. 1993/744 r.34(3) (part); Changes 37, 45, 47.
(7)	S.I. 1993/744 r.34(3) (part); Changes 37, 45, 46, 55.
52	
(1)	Drafting.
(2)	S.I. 1993/744 r.25(2) (part), r.34(2) (part); (3) (part); Changes 37, 38.
(3)	S.I. 1993/744 r.25(2) (part), r.34(2) (part); Changes 1, 37.
(4)	S.I. 1993/744 r.25(3) (part); Change 37.
(5)	S.I. 1993/744 r.34(2) (part), r.25(3) (part); Change 37.
(6)	S.I. 1993/744 r.25(4) (part), (7) (part); r.34(2) (part); Change 37.
(7), (8)	S.I. 1993/744 r.25(4) (part), r.34(2) (part); Change 37.
(9)	S.I. 1993/744 r.25(4) (part); Change 37.
(10)	S.I. 1993/774 r.25(5) (part), r.34(2) (part); drafting; Change 37.
(11)	S.I. 1993/744 r.25(5) (part), r.34(2) (part), Change 48.
(12)	S.I. 1993/744 r.25(5) (part), r.34(2) (part); Change 22.
(13)	S.I. 1993/744 r.25(7), r.34(2) (part); Change 37.
53	
(1)	S.I. 1993/744 r.33 (part); Change 56.
(2)	S.I. 1993/744 r.33 (part); Change 1.
(3)	S.I. 1993/744 r.33 (part); Change 48.
(4)	S.I. 1993/744 r.33 (part); Change 22.
54	Drafting.
55	
(1)	S.I. 1993/744 r.26(1) (part).
(2)	S.I. 1993/744 r.17(1) (part), 26(1) (part); drafting.
(3)	S.I. 1993/744 r.26(1) (part), (1A) (part); Change 57.
(4)	S.I. 1993/744 r.26(2); Changes 38.
(5)	Drafting.
56	
(1)	S.I. 1993/744 r.26(3) (part); Change 37.
(2)	S.I. 1993/744 r.25(2) (part), r.26(3) (part); Change 37.
(3)	S.I. 1993/744 r.26(3) (part), (4) (part); Changes 1, 37, 58.

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	(4) Changes 37, 47.
	(5) S.I. 1993/744 r.17(1) (part), r.26(3) (part); drafting.
	(6) Drafting.
57	(1) S.I. 1993/744 r.28(4) (part), (5) (part); Change 37.
	(2) S.I. 1993/744 r.28(5) (part), (5A) (part); Change 1.
	(3) S.I. 1993/744 r.28(5B); Change 38.
	(4) Change 51.
58	(1) S.I. 1993/744 r.28(1) (part), (4) (part); Changes 37, 50.
	(2) S.I. 1993/744 r.31(1), (3) (part), (4).
	(3) S.I. 1993/744 r.28(1A) (part); Change 1.
	(4) S.I. 1993/744 r.28(1B) (part); Change 38.
	(5) S.I. 1993/744 r.28(1B) (part); Change 38.
	(6) Change 51.
59	(1) S.I. 1993/744 r.32 (part); Changes 1, 47.
	(2) S.I. 1993/744 r.32 (part); Change 47.
60	(1) S.I. 1993/744 r.34(1) (part); Change 37.
	(2) S.I. 1993/744 r.25(2) (part), r.34(2) (part); (3) (part), Change 37.
	(3) S.I. 1993/744 r.25(2) (part), r.34(2) (part), (3) (part); Changes 1, 37.
	(4) S.I. 1993/744 r.34(2) (part), (3) (part); Changes 37, 47.
	(5) S.I. 1993/744 r.25(5) (part), (7) (part), r.34 (2) (part), (3) (part); drafting; Change 59.
	(6) Drafting.
	(7) Change 54.
61	(1) S.I. 1993/744 r.33 (part); Change 56.
	(2) S.I. 1993/744 r.33 (part); Change 1.
	(3) S.I. 1993/744 r.33 (part); Change 48.
	(4) S.I. 1993/744 r.33 (part); Change 22.
62	(1) Drafting.
	(2) S.I. 1993/744 r.6(1) (part), r.24(2) (part).
	(3) – (5) New.
	(6) S.I. 1993/744 r.14(2).
63	(1) S.I. 1993/744 r.35(1) (part), (2), (3).
	(2) S.I. 1993/744 r.35(1) (part).

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64	<p>(1) S.I. 1993/744 r.36(1), (2) (part).</p> <p>(2), (3) S.I. 1993/744 r.36(2) (part).</p> <p>(4) Drafting.</p> <p>(5), (6) S.I. 1993/744 r.36(3) (part).</p> <p>(7) S.I. 1993/744 r.36(4); Change 60.</p> <p>(8) S.I. 1993/744 r.36(5), r.42 (7); Change 1.</p> <p>(9), (10) S.I. 1993/744 r.36(6) (part).</p> <p>(11) S.I. 1993/744 r.36(3) (part), (7).</p>
65	<p>(1) S.I. 1993/744 r.37(1), (2) (part); Change 61.</p> <p>(2) S.I. 1993/744 r.37(2) (part); Change 37.</p> <p>(3), (4) S.I. 1993/744 r.37(2) (part); Change 62.</p> <p>(5) S.I. 1993/744 r.37(3) (part); Changes 1, 61, 63.</p> <p>(6), (7) S.I. 1993/744 r.37(3) (part); Change 63.</p> <p>(8) S.I. 1993/744 r.37(2) (part), (3) (part).</p>
66	<p>(1), (2) S.I. 1993/744 r.38(1) (part).</p> <p>(3) S.I. 1993/744 r.38(1) (part), (2); Change 38.</p> <p>(4) S.I. 1993/744 r.17(3) (part), r.38(3); S.I. 1994/1212 r.13(1) (2); Change 35.</p> <p>(5), (6) S.I. 1993/744 r.38(4) (part).</p> <p>(7) S.I. 1993/744 r.17(3) (part).</p> <p>(8) S.I. 1993/744 r.17(4).</p>
67	<p>(1) S.I. 1993/744 r.39(1).</p> <p>(2) S.I. 1993/744 r.39(2); Changes 38, 64.</p> <p>(3) S.I. 1993/744 r.39(3); Change 38.</p>
68	<p>(1) Drafting.</p> <p>(2) S.I. 1993/744 r.40(1) (part), (2) (part), r.41(1) (part), (2) (part); Change 1.</p> <p>(3) S.I. 1993/744 r.42(6) (part); Change 65.</p> <p>(4) S.I. 1993/744 r.40(2) (part), r.41(2) (part), r.42(6) (part); S.I.1994/1212 r.13(5) (part), (6) (part).</p> <p>(5) S.I. 1993/744 r.40(2) (part), r.41(2) (part).</p> <p>(6) S.I. 1993/744 r.40(1) (part), r.41(1) (part).</p>
69	<p>(1) S.I. 1993/744 r.40(1) (part), r.41(1) (part)</p> <p>(2) S.I. 1993/744 r.42(1) (part); Change 1.</p> <p>(3) S.I. 1993/744 r.2(1) (“earnings related contributions”), r.42(1) (part).</p>
70	<p>(1) S.I. 1993/744 r.41(1) (part), (3) (part).</p> <p>(2) S.I. 1993/744 r.41(3) (part).</p> <p>(3) S.I. 1993/744 r.41(3) (part); Changes 1, 66.</p>

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71	(4) S.I. 1993/744 r.2(1) (“employed earner”); drafting.
	(1) Drafting.
	(2) S.I. 1993/744 r.40(2) (part), r.41(2) (part); drafting.
	(3) Drafting.
	Table 3 S.I. 1993/744 r.40(2) (part), r.41(2) (part); drafting; Change 67.
	(4) S.I. 1993/744 r.42(6) (part).
	(5) S.I. 1993/744 r.40(2) (part), r.41(2) (part); S.I. 1994/1212 r.13(5) (part), (6) (part); Change 68.
72	(1) S.I. 1993/744 r.42(2) (part), (3) (part); Change 1.
	(2) S.I. 1993/744 r.42(2) (part), (3) (part); S.I. 1994/1212 r.13(7) (part); drafting; Change 69.
	(3) S.I. 1993/744 r.42(2) (part); Change 1.
	(4) S.I. 1993/744 r.42(3) (part); Change 1.
	(5) S.I. 1993/744 r.42(2) (part), (3) (part); Change 1.
	(6) S.I. 1993/744 r.42(2) (part), (3) (part), r.101(6) (part) and r.101A(2) (part).
	(7), (8) S.I. 1993/744 r.42(4) (part).
73	(1) S.I. 1993/744 r.43(1) (part); Change 1.
	(2) S.I. 1993/744 r.43(1A) (part).
	(3) S.I. 1993/744 r.43(1B) (part).
	(4) S.I. 1993/744 r.43(2); Change 38.
	(5) S.I. 1993/744 r.43(1A) (part), (2) (part).
	(6) S.I. 1993/744 r.43(1B) (part), (6).
	(7) S.I. 1993/744 r.43(3), (3A) (part), (4) (part), (5) (part); Change 38.
	(8) S.I. 1993/744 r.43(4) (part), (5) (part), (7).
	(9) S.I. 1993/744 r.43(3A) (part), (3B) (part).
	(10) S.I. 1993/744 r.43(12).
74	(1) S.I. 1993/744 r.44(1) (part), (2) (part); Changes 1, 70.
	(2) Change 70.
	(3), (4) S.I. 1993/744 r.44(1) (part); Change 70.
75	(1) S.I. 1993/744 r.45(1) (part), (2).
	(2) S.I. 1993/744 r.45 (1) (part), (3).
	(3) S.I. 1993/744 r.45(1) (part), (4).
76	(1), (2) S.I. 1993/744 r.43(8) (part); Change 1.
	(3) Drafting.
77	(1) S.I. 1993/744 r.47(1) (part).

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(2)	S.I. 1993/744 r.47(1) (part); Change 1.
(3)	S.I. 1993/744 r.47(4); Change 1.
(4)	S.I. 1993/744 r.47(2) (part); Changes 1, 71.
(5)	S.I. 1993/744 r.47(3); Change 72.
(6)	S.I. 1993/744 r.47(5), r.54(6) (part); Change 1.
(7)	Drafting.
78	
(1)	S.I. 1993/744 r.48(1) (part).
(2)	S.I. 1993/744 r.48(1) (part); Change 1.
(3)	S.I. 1993/744 r.48(4); Change 1.
(4)	S.I. 1993/744 r.48(2), (6) (part); Changes 1, 71.
(5)	S.I. 1993/744 r.48(3); Changes 72, 73.
(6), (7)	S.I. 1993/744 r.48(5) (part); Change 1.
(8)	S.I. 1993/744 r.48(6) (part); Change 1.
(9)	S.I. 1993/744 r.48(7); Change 1.
(10), (11)	S.I. 1993/744 r.48(11) (part); Change 1.
(12), (13)	S.I. 1993/744 r.48(12) (part).
(14)	Drafting.
79	
(1)	Drafting.
(2)	S.I. 1993/744 r.55(8) (part); Change 1.
(3)	Drafting.
80	
(1)	S.I. 1993/744 r.49(1); Change 1.
(2)	S.I. 1993/744 r.49(2); Change 1.
(3)	S.I. 1993/744 r.49(3).
(4)	S.I. 1993/744 r.49(4).
(5)	S.I. 1993/744 r.49(7).
(6)	S.I. 1993/744 r.49(8).
81	
(1)	S.I. 1993/744 r.49(5) (part).
(2)	S.I. 1993/744 r.49(5) (part); Change 1.
(3)	S.I. 1993/744 r.49(5) (part); S.I. 1994/1212 r.13(7) (part); Change 35.
(4)	S.I. 1993/744 r.49(5) (part); S.I. 1994/1212 r.13(7) (part); Changes 1, 35.
(5)	S.I. 1993/744 r.49(5) (part), r.101(6) (part) and r.101A(2) (part).
(6), (7)	S.I. 1993/744 r.49(6) (part).
82	
(1)	S.I. 1993/744 r.51(1) (part); S.I. 1994/1212 r.13(5) (part) and (6) (part); Changes 1 and 35.
(2)	S.I. 1993/744 r.51(1) (part).
(3)	S.I. 1993/744 r.52(2) (part).
(4)	S.I. 1993/744 r.51(2) (part); Change 74.
(5)	S.I. 1993/744 r.52(1) (part).

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(6)	S.I. 1993/744 r.51(1) (part); S.I. 1994/1212 r.13(5) (part) and (6) (part); Changes 35 and 75.
(7)	S.I. 1993/744 r.52(1) (part).
(8)	S.I. 1993/744 r.51(3) (part).
83	
(1)	S.I. 1993/744 r.53A(1) (part).
(2)	S.I. 1993/744 r.53A(1) (part); Change 76.
(3), (4)	S.I. 1993/744 r.53A(2) (part).
84	
(1)	S.I. 1993/744 r.54(1) (part), (2) (part).
(2)	S.I. 1993/744 r.54(1) (part); Change 77.
(3)	Drafting.
Table 4	S.I. 1993/744 r.43(9), r.47(6), r.48(6) (part), r.52(3), r.54(3), r.55(9).
(4), (5)	S.I. 1993/744 r.54(4) (part).
(6)	S.I. 1993/744 r.54(5).
85	
(1)	S.I. 1993/744 r.46(1) (part); Change 1.
(2)	S.I. 1993/744 r.46(7A) (part), (7B) (part).
(3)	Drafting.
86	
(1)	S.I. 1993/744 r.46(1) (part), (2), (5) (part); Changes 37, 78.
(2)	S.I. 1993/744 r.46(1) (part), (7) (part).
(3)	S.I. 1993/744 r.46(1) (part), (4) (part); Change 1.
(4)	S.I. 1993/744 r.46(8) (part).
87	
(1)	S.I. 1993/744 r.46(1) (part), (3), (5) (part).
(2)	S.I. 1993/744 r.46(1) (part), (7) (part).
(3)	S.I. 1993/744 r.46(1) (part), (4) (part); Change 1.
(4)	S.I. 1993/744 r.46(8) (part).
(5)	Drafting.
88	
(1), (2)	S.I. 1993/744 r.46(6).
89	
	S.I. 1993/744 r.46(7) (part).
90	
(1)	S.I. 1993/744 r.46A(1) (part), (2).
(2)	S.I. 1993/744 r.46A(1) (part); Change 1.
(3)	S.I. 1993/744 r.46A(3), (4).
(4)	S.I. 1993/744 r.46A(5).
91	
(1)	S.I. 1993/744 r.46ZA(1) (part); Change 1.
(2)	S.I. 1993/744 r.46ZA(1) (part); drafting.

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(3)	S.I. 1993/744 r.46ZA(2).
(4)	S.I. 1993/744 r.46ZA(3).
(5)	S.I. 1993/744 r.46ZA(4).
(6), (7)	S.I. 1993/744 r.46ZA(11) (part).
(8)	S.I. 1993/744 r.46ZA(10) (part).
(9)	S.I. 1993/744 r.46ZA(12); drafting.
92	
(1)	S.I. 1993/744 r.46ZA(5) (part); Change 79.
(2)	S.I. 1993/744 r.46ZA(5) (part); Change 80.
(3)	S.I. 1993/744 r.46ZA(6); Change 1.
(4)	S.I. 1993/744 r.46ZA(9) (part).
(5)	S.I. 1993/744 r.46ZA(9) (part); Change 1.
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93	
(1), (2)	S.I. 1993/744 r.46ZA(10) (part).
94	
(1)	S.I. 1993/744 r.46AA(1) (part).
(2)	S.I. 1993/744 r.46AA(1) (part), (4) (part).
(3)	S.I. 1993/744 r.46AA(2).
(4), (5)	S.I. 1993/744 r.46AA(3) (part).
(6)	S.I. 1993/744 r.46AA(5).
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95	
(1)	S.I. 1993/744 r.46AB(1) (part).
(2)	S.I. 1993/744 r.46AB(2), (3).
(3)	S.I. 1993/744 r.46AB(1) (part), (4).
96	
(1)	S.I. 1993/744 r.46ZA(7) (part); Change 1.
(2)	S.I. 1993/744 r.46ZA(7) (part).
(3)	S.I. 1993/744 r.46ZA(8).
(4)	S.I. 1993/744 r.46ZA(10) (part).
97	
(1)	S.I. 1993/744 r.55(1), (2) (part).
(2)	S.I. 1993/744 r.55(2) (part); S.I. 1994/1212 r.13(8); Change 1.
(3)	S.I. 1993/744 r.55(3); Change 81.
(4)	S.I. 1993/744 r.55(4).
(5)	S.I. 1993/744 r.55(5); Change 71.
(6)	S.I. 1993/744 r.55(6).
(7)	S.I. 1993/744 r.55(7).
(8)	S.I. 1993/744 r.55(12); Change 1.
98	
(1), (2)	S.I. 1993/744 r.3(1) (part).

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(3)	Drafting.
(4)	S.I. 1993/744 r.3(2); Change 1.
(5)	S.I. 1993/744 r.3(3) (part); Change 82.
(6)	S.I. 1993/744 r.3(4) (part); Change 82.
(7)	S.I. 1993/744 r.3(4) (part); drafting.
(8)	S.I. 1993/744 r.3(3) (part); Change 1.
(9), (10)	S.I. 1993/744 r.3(5) (part); Change 82.
(11)	S.I. 1993/744 r.3(1) (part).
99	
(1)	S.I. 1993/744 r.3(6).
(2)	S.I. 1993/744 r.3(7).
(3) – (5)	S.I. 1993/744 r.3(8) (part).
(6)	S.I. 1993/744 r.3(9).
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(1)	S.I. 1993/744 r.5(1) (part).
(2)	Change 83.
(3)	S.I. 1993/744 r.5(2).
(4)	S.I. 1993/744 r.5(3), (4A) (part); Change 1.
(5)	S.I. 1993/744 r.5(4).
(6)	Change 83.
(7)	S.I. 1993/744 r.5(1) (part), (5).
101	
(1), (2)	S.I. 1993/744 r.79 (part).
(3)	S.I. 1993/744 r.79 (part); Changes 84, 87.
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(3), (4)	S.I. 1993/744 r.80(2) (part).
(5)	S.I. 1993/744 r.80(3) (part).
(6)	S.I. 1993/744 r.80(3) (part); Change 86.
(7)	S.I. 1993/744 r.80(3) (part); Changes 86, 87, 35.
(8)	S.I. 1993/744 r.80(5).
(9)	S.I. 1993/744 r. 80(1) (part).
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(1) – (3)	Change 85.
(4)	Drafting. New.
104	
(1) – (3)	S.I. 1993/744 r.80(4) (part).
(4), (5)	S.I. 1993/744 r.80(4) (part); drafting.
105	
(1)	S.I. 1993/744 r.80A(1) (part); Change 1.
(2)	S.I. 1993/744 r.80A(1) (part).
(3)	S.I. 1993/744 r.80A(2).
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(1), (2)	S.I. 1993/744 r.80A(3) (part).

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(3)	S.I. 1993/744 r.80A(3) (part), (4); Change 1.
(4)	Drafting.
(5)	S.I. 1993/744 r.80A(3) (part).
107	
(1), (2)	S.I. 1993/744 r.80E(1) (part).
(3)	S.I. 1993/744 r.80E(3).
(4)	S.I. 1993/744 r.80E(4).
(5), (6)	S.I. 1993/744 r.80E(2) (part).
(7)	S.I. 1993/744 r.80A(5).
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(1)	S.I. 1993/744 r.80F(1); Changes 88.
(2)	S.I. 1993/744 r.80F(2); Change 1.
(3)	S.I. 1993/744 r.80F(3), (4); Change 88.
109	
(1)	S.I. 1993/744 r.80G(1); Change 1.
(2)	S.I. 1993/744 r.80G(2).
(3)	S.I. 1993/744 r.80G(3), (4); Change 77.
(4)	S.I. 1993/744 r.80G(5).
(5), (6)	S.I. 1993/744 r.80G(6) (part).
110	
(1)	S.I. 1993/744 r.80H(1).
(2), (3)	S.I. 1993/744 r.80H(2) (part).
(4)	S.I. 1993/744 r.80H(3).
(5)	S.I. 1993/744 r.80H(4).
111	
(1)	S.I. 1993/744 r.80B(1) (part).
(2)	S.I. 1993/744 r.80B(1) (part), (2).
112	
(1)	S.I. 1993/744 r.80C(1).
(2)	S.I. 1993/744 r.80C(2).
113	
(1)	S.I. 1993/744 r.80D(1) (part); Change 1.
(2)	S.I. 1993/744 r.80D(2).
(3)	S.I. 1993/744 r.80D(1) (part), (3).
114	
(1)	S.I. 1993/744 r.80M(1) (part), (2); Change 1.
(2), (3)	S.I. 1993/744 r.80M(1) (part).
(4)	S.I. 1993/744 r.80M(3).
115	
(1)	S.I. 1993/744 r.80J(1) (part), (2) (part); Change 1.
(2)	S.I. 1993/744 r.80J(1) (part), (2) (part).
(3)	S.I. 1993/744 r.80J(7).

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(4)	S.I. 1993/744 r.80J(5) (part).
(5)	S.I. 1993/744 r.80J(8).
(6)	S.I. 1993/744 r.80J(5) (part).
116	
(1), (2)	S.I. 1993/744 r.80K(1) (part).
(3), (4)	S.I. 1993/744 r.80K(2) (part).
117	
(1)	S.I. 1993/744 r.80N(1), (2) (part); Change 89.
(2)	S.I. 1993/744 r.80N(2) (part); Change 1.
(3)	S.I. 1993/744 r.80N(3); Change 89.
(4)	S.I. 1993/744 r.80N(4); Change 89.
(5)	S.I. 1993/744 r.80N(5); Changes 71, 89.
(6)	S.I. 1993/744 r.80N(6).
(7)	S.I. 1993/744 r.80N(7); Change 89.
(8)	S.I. 1993/744 r.80N(8).
118	
(1)	S.I. 1993/744 r.56 (part); Change 90.
(2)	S.I. 1993/744 r.56 (part).
119	
(1)	S.I. 1993/744 r.57(1), (2); Changes 1, 14, 90.
(2)	S.I. 1993/744 r.57(3); Change 1.
(3)	S.I. 1993/744 r.57(4); Change 90.
(4)	S.I. 1993/744 r.57(5) (part); Change 1.
(5)	S.I. 1993/744 r.57(5) (part); Changes 1, 90.
(6)	S.I. 1993/744 r.57(5) (part); drafting.
120	
(1)	S.I. 1993/744 r.57(6) (part); Change 1.
(2)	S.I. 1993/744 r.57(6) (part); drafting.
(3)	S.I. 1993/744 r.57(7); Changes 38, 90.
121	Changes 91, 4.
122	
(1)	S.I. 1993/744 r.59(1).
(2)	S.I. 1993/744 r.59(2), (3) (part); Change 92.
123	
(1)	S.I. 1993/744 r.60.
(2)	Changes 4, 91.
124	
(1)	S.I. 1993/744 r.61(1).
(2)	S.I. 1993/744 r.61(2); Change 1.
(3)	S.I. 1993/744 r.61(4).
125	
(1)	S.I. 1993/744 r.62(1) (part); Change 1.

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(2)	S.I. 1993/744 r.62(1) (part); Change 10.
(3)	S.I. 1993/744 r.62(2); Change 1.
(4)	S.I. 1993/744 r.62(3); Change 1.
126	
(1)	S.I. 1993/744 r.63(1); Change 14.
(2)	S.I. 1993/744 r.63(2) (part); Change 1.
(3)	Drafting.
(4)	S.I. 1993/744 r.63(2) (part); Change 1.
(5), (6)	S.I. 1993/744 r.63(3); Change 1.
(7)	S.I. 1993/744 r.63(4).
127	
(1), (2)	S.I. 1993/744 r.63(7).
(3)	S.I. 1993/744 r.63(9); Change 1.
(4)	S.I. 1993/744 r.63(5), (6); Change 17.
128	
(1), (2)	S.I. 1993/744 r.64(1); Change 1.
(3)	S.I. 1993/744 r.64(2); Change 1.
(4)	S.I. 1993/744 r.64(3).
129	
(1)	S.I. 1993/744 r.65(1).
(2)	S.I. 1993/744 r.65(2); Change 38.
130	
(1)	S.I. 1993/744 r.66(1).
(2)	S.I. 1993/744 r.66(2) (part); Change 1.
(3)	S.I. 1993/744 r.66(3) (part); Changes 1, 10.
131	
(1)	S.I. 1993/744 r.67(1).
(2)	S.I. 1993/744 r.67(2); Change 38.
132	
(1)	S.I. 1993/744 r.68(1) (part), (3) (part); Change 93.
(2)	S.I. 1993/744 r.68(1) (part); Change 64.
(3)	S.I. 1993/744 r.68(2); Changes 38, 64.
133	S.I. 1993/744 r.70.
134	S.I. 1993/744 r.71.
135	
(1)	S.I. 1993/744 r.72.
(2)	Changes 91, 4.
136	S.I. 1993/744 r.73.

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137	
(1)	S.I. 1993/744 r.74(1).
(2)	S.I. 1993/744 r.74(2); Change 38.
138	
(1)	S.I. 1993/744 r.75(1).
(2)	S.I. 1993/744 r.75(2) (part); Change 1.
(3)	S.I. 1993/744 r.75(3) (part); Changes 1, 10.
139	
(1)	S.I. 1993/744 r.76(1).
(2)	S.I. 1993/744 r.76(2); Change 38.
140	
	S.I. 1993/744 r.78.
141	
(1)	S.I. 1993/744 r.102(1), (2), (3); Change 1.
(2)	Change 95.
142	
(1)	S.I. 1993/744 r.104(1) (part); Change 1.
(2)	Change 96.
143	
(1), (2)	S.I. 1993/744 r.104(2) (part).
(3)	Change 97.
(4)	S.I. 1993/744 r.104(14).
(5)	S.I. 1993/744 r.104(15).
144	
(1)	Drafting.
(2)	S.I. 1993/744 r.104(3), (4); Changes 1, 97.
(3)	Changes 97, 98.
(4)	S.I. 1993/744 r.104(2) (part); Change 97.
(5)	Change 97.
145	
(1)	S.I. 1993/744 r.104(9) (part); Changes 1, 39.
(2)	S.I. 1993/744 r.104(10); Change 97.
146	
(1)	S.I. 1993/744 r.104(11) (part); Change 1.
(2)	S.I. 1993/744 r.104(12); Change 97.
(3)	S.I. 1993/744 r.104(11) (part).
(4)	S.I. 1993/744 r.104(13).
(5)	S.I. 1993/744 r.104(16).
147	
(1)	S.I. 1993/744 r.104(5); Change 1.
(2)	S.I. 1993/744 r.104(6) (part); Changes 1, 71.
(3)	S.I. 1993/744 r.104(6) (part).

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148	<p>“award” “claim”, “claimant” “Chapter 2 claimant” “Department” “JSA Regulations” “jobseeker’s allowance” “taxable jobseeker’s allowance”</p>	<p>Drafting. S.I. 1993/744 r.81 (part); Change 99. Change 100. S.I. 1993/744 r.83(1), r.94. Drafting; Change 99. S.I. 1993/744 r.81 (part). S.I. 1993/744 r.81 (part); Change 99.</p>
149		Drafting.
150	<p>(1) (2) Table 5 (3)</p>	<p>S.I. 1993/744 r.82(1) (part); r.85(1); drafting; Change 101. S.I. 1993/744 r.82(2) (part); drafting. S.I. 1993/744 r.82(2) (part); drafting. S.I. 1993/744 r.83(3).</p>
151	<p>(1) (2)</p>	<p>S.I. 1993/744 r.84(1) (part), r.84(2) (part); Changes 37. S.I. 1993/744 r.84(8); Change 37.</p>
152	<p>(1) (2) (3)</p>	<p>S.I. 1993/744 r.84(3) (part). S.I. 1993/744 r.84(3) (part); drafting; Change 37. S.I. 1993/744 r.84(7) (part); Change 37; drafting.</p>
153	<p>(1) – (4) (5), (6) (7) (8) (9)</p>	<p>S.I. 1993/744 r.84(3) (part); Change 37. S.I. 1993/744 r.84(5) (part); Change 37. S.I. 1993/744 r.84(6) (part); Change 37. S.I. 1993/744 r.84(7) (part); Change 37. S.I. 1993/744 r.84(3) (part); Change 1.</p>
154	<p>(1) (2) (3)</p>	<p>S.I. 1993/744 r.84(7) (part), drafting; Change 102. S.I. 1993/744 r.84(9) (part); drafting; Changes 1, 38. S.I. 1993/744 r.84(10) (part).</p>
155	<p>(1) (2)</p>	<p>S.I. 1993/744 r.85(2) (part); Change 1. S.I. 1993/744 r.85(2) (part).</p>
156		S.I. 1993/744 r.87.
157	<p>(1) (2) (3)</p>	<p>S.I. 1993/744 r.88(1) (part). S.I. 1993/744 r.88(1) (part); drafting; Change 1. S.I. 1993/744 r.88(2).</p>

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(4)	S.I. 1993/744 r.88(4) (part); drafting; Change 38.
(5)	S.I. 1993/744 r.88(5) (part).
158	
(1)	S.I. 1993/744 r.89(1); Change 103.
(2)	S.I. 1993/744 r.89(2) (part); r.91(4).
(3), (4)	S.I. 1993/744 r.89(3) (part).
(5)	S.I. 1993/744 r.89(4).
159	
(1)	S.I. 1993/744 r.89(2) (part).
(2)	S.I. 1993/744 r.89(2) (part); Changes 1, 37.
(3)	S.I. 1993/744 r.89(2) (part); Changes 37 .
Table 6	S.I. 1993/744 r.89(2) (part); Changes 37, 38, 104.
(4)	S.I. 1993/744 r.89(2) (part).
(5)	Drafting; Changes 37.
(6)	Drafting.
160	
(1)	S.I. 1993/744 r.88(3), r.90 (part).
(2)	S.I. 1993/744 r.90 (part); Change 1.
161	
(1)	S.I. 1993/744 r.91(1) (part).
(2)	S.I. 1993/744 r.91(1) (part); Change 20.
(3)	S.I. 1993/744 r.91(3).
(4)	S.I. 1993/744 r.91(2); drafting.
(5)	S.I. 1993/744 r.91(1) (part), (6); Change 105.
162	
(1)	S.I. 1993/744 r.91(4) (part); (5) (part); Change 37.
(2), (3)	S.I. 1993/744 r.91(5) (part); Change 1.
163	
(1)	S.I. 1993/744 r.92(1) (part); Changes 1, 106.
(2)	S.I. 1993/744 r.92(1) (part).
(3)	S.I. 1993/744 r.92(2).
164	
(1)	S.I. 1993/744 r.93(1).
(2)	S.I. 1993/744 r.93(2) (part).
165	
(1), (2)	Drafting.
166	
(1), (2)	S.I. 1993/744 r.95 (part).
167	
(1)	S.I. 1993/744 r.96(1).
(2)	S.I. 1993/744 r.96(2).
(3)	S.I. 1993/744 r.96(3).

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168	
(1)	S.I. 1993/744 r.96(4).
(2), (3)	S.I. 1993/744 r.96(5) (part); Change 1.
(4)	Change 107.
169	S.I. 1993/744 r.97(1) (part); Change 108.
170	
(1)	Drafting.
(2)	S.I. 1993/744 r.97(2) (part); Changes 1, 109.
171	
(1)	S.I. 1993/744 r.97(2) (part); Change 1.
(2)	Change 110; drafting.
172	
(1)	S.I. 1993/744 r.98 (part); Change 111.
(2)	S.I. 1993/744 r.98 (part); Changes 1, 111.
173	
“award”	Drafting.
“claim”, “claimant”	S.I. 1993/744 r.81 (part).
“Department”	S.I. 1993/744 r.98A.
“incapacity benefit”	S.I. 1993/744 r.81 (part).
“single-income claimant”	S.I. 1993/744 r.98C(2); Change 112.
“taxable incapacity benefit”	S.I. 1993/744 r.81 (part).
174	
(1)	S.I. 1993/744 r.82(1) (part), r.98B, r.98F(5), r.98G(1), (2), r.98H; drafting; Changes 4, 113.
(2)	S.I. 1993/744 r.82(2) (part), r.98B; drafting.
Table 7	S.I. 1993/744 r.82(2) (part), r.98B (part); drafting.
(3)	S.I. 1993/744 r.98G(1) Change 4.
(4)	S.I. 1993/744 r.98B; Change 113.
175	
(1)	S.I. 1993/744 r.98C(1) (part), (2); Change 1.
(2)	S.I. 1993/744 r.98C(1) (part).
(3)	Drafting.
176	
(1)	S.I. 1993/744 r.98D(1); Change 1.
(2)	S.I. 1993/744 r.98D(2); Change 114.
177	
(1)	S.I. 1993/744 r.98D(3) (part).
(2)	S.I. 1993/744 r.98D(3) (part); Change 1.
(3)	S.I. 1993/744 r.98D(3) (part).
(4)	Change 115.

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178	
(1)	S.I. 1993/744 r.98E(1) (part), (2); Change 37.
(2)	S.I. 1993/744 r.98E(1) (part); Changes 1, 37.
179	
(1)	S.I. 1993/744 r.98F(1); Changes 1, 116.
(2)	Change 117.
(3)	S.I. 1993/744 r.98F(2) (part).
(4)	S.I. 1993/744 r.98F(2) (part), Change 1.
(5)	S.I. 1993/744 r.98F(3).
(6)	S.I. 1993/744 r.98F(4); Change 1.
180	
(1)	S.I. 1993/744 r.27(1) (part), r.98B (part); Changes 1, 37, 41.
(2)	Drafting; Change 39.
(3), (4)	S.I. 1993/744 r.27(2) (part), r.98B (part).
(5)	S.I. 1993/744 r.27(2) (part), r.98B (part); Change 42.
181	Change 118.
182	Change 118.
183	
(1), (2), (3)	Change 118.
184	
(1), (2)	Change 118.
185	
(1), (2)	S.I. 1993/744 r.101A(1) (part).
(3)	S.I. 1993/744 r.101A(2) (part), (4).
(4)	S.I. 1993/744 r.101(4) (part), r.101A(2) (part).
(5)	S.I. 1993/744 r.101(4) (part), (5), (6) (part), r.101A(2) (part); S.I. 1994/1212 r.13(1) (part); Changes 35, 119.
(6)	Drafting.
186	
(1)	S.I. 1993/744 r.101A(3).
(2)	Drafting.
(3) – (5)	Change 120.
187	Change 120.
188	
(1)	S.I. 1993/744 r.101(7) (part).
(2)	S.I. 1993/744 r.101(2) (part).
(3)	S.I. 1993/744 r.101(3) (part), (4) (part); S.I. 1994/1212 r.13(1) (part); Change 35.
(4), (5)	S.I. 1993/744 r.101(6) (part).
(6)	S.I. 1993/744 r.101(2) (part).
(7)	S.I. 1993/744 r.101(7) (part); drafting.

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189	<p>“approved method of electronic communications” “electronic communications” “official computer system”</p>	<p>S.I. 1993/744 r.2(1) (“electronic communications” “approved”) (part); drafting; Change 121.</p> <p>S.I. 1993/744 r.2(1) (“electronic communications”) (part).</p> <p>S.I. 1993/744 r.2(1) (“official computer system”) (part), (4) (part); Changes 121, 122.</p>
190	<p>(1), (2) (3)</p>	<p>S.I. 1993/744 r. 42A(2) (part); r.46ZD(4) (part).</p> <p>S.I. 1993/744 r. 42A(1) (part); r. 46ZD(4) (part).</p>
191	<p>(1) (2) (3)</p>	<p>S.I. 1993/744 r. 42A(2) (part); r.46ZD(4) (part).</p> <p>S.I. 1993/744 r. 46ZD(4) (part).</p> <p>S.I. 1993/744 r. 42A(3); r.46ZD(4) (part).</p>
192		S.I. 1993/744 r.2A; Change 121.
193	<p>(1) (2)</p>	<p>S.I. 1993/744 r.2B(1), (2); Changes 121, 123.</p> <p>S.I. 1993/744 r.2B(3).</p>
194		S.I. 1993/744 r.2C; Change 121.
195	<p>(1), (2)</p>	S.I. 1993/744 r.46ZB (part); Changes 1, 121.
196	<p>(1) (2) (3)</p>	<p>S.I. 1993/744 r.2D(1) (part), (4) (part); Change 1.</p> <p>S.I. 1993/744 r.2D(2) (part), (4) (part); Change 1.</p> <p>S.I. 1993/744 r.2D(3) (part), (4) (part); Change 124.</p>
197	<p>(1) (2) (3) (4)</p>	<p>S.I. 1993/744 r.2D(1) (part).</p> <p>S.I. 1993/744 r.2D(2) (part).</p> <p>S.I. 1993/744 r.2D(3) (part); Change 124.</p> <p>Change 1.</p>
198	<p>(1) (2)</p>	<p>S.I. 1993/744 r.2E(1).</p> <p>S.I. 1993/744 r.2E(2).</p>
199	<p>(1) (2) (3)</p>	<p>S.I. 1993/744 r.42A(1) (part).</p> <p>S.I. 1993/744 r.42A(2) (part).</p> <p>S.I. 1993/744 r.42A(5).</p>
200	<p>(1) (2)</p>	<p>S.I. 1993/744 r.42A(2) (part).</p> <p>S.I. 1993/744 r.42A(1) (part).</p>

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(3) – (5)	S.I. 1993/744 r.42A(4) (part).
(6)	Drafting.
201	
(1)	S.I. 1993/744 r.42B(1) (part).
(2)	S.I. 1993/744 r.42B(1) (part), (2).
(3)	S.I. 1993/744 r.42B(4).
(4)	S.I. 1993/744 r.42B(5).
(5)	S.I. 1993/744 r.42B(3).
202	
(1)	S.I. 1993/744 r.42B(6).
(2) – (4)	S.I. 1993/744 r.42B(7) (part).
(5)	S.I. 1993/744 r.42B(8).
(6)	Drafting.
203	
(1), (2)	S.I. 1993/744 r.42B(9) (part).
(3), (4)	S.I. 1993/744 r.42B(10) (part).
Table 8	S.I. 1993/744 r.42B(10) (part).
(5)	S.I. 1993/744 r.42B(10) (part).
(6)	S.I. 1993/744 r.42B(16).
(7)	S.I. 1993/744 r.42B(17).
204	
(1) – (3)	S.I. 1993/744 r.42B(11) (part).
(4), (5)	S.I. 1993/744 r.42B(12) (part).
(6)	S.I. 1993/744 r. 42B(13).
(7)	S.I. 1993/744 r. 42B(14).
(8)	S.I. 1993/744 r. 42B(15).
(9)	Drafting.
205	
(1)	S.I. 1993/744 r.46ZC(1); Changes 1, 121.
(2)	S.I. 1993/744 r.46ZC(3); Change 121.
(3)	S.I. 1993/744 r.46ZC(2).
(4)	S.I. 1993/744 r.46ZC(4).
(5)	S.I. 1993/744 r.46ZE(1) (part).
206	
(1)	S.I. 1993/744 r.46ZD(1), (2) (part), (3) (part).
(2)	S.I. 1993/744 r.46ZD(2) (part), (3) (part).
(3)	S.I. 1993/744 r.46ZD(4) (part).
207	
(1)	S.I. 1993/744 r.46ZE(1) (part).
(2)	S.I. 1993/744 r.46ZE(2).
208	
(1)	S.I. 1993/744 r.46ZD(4) (part); Drafting.
(2) – (4)	S.I. 1993/744 r.46ZD(5) (part).
(5)	Drafting.

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209	
(1)	S.I. 1993/744 r.46ZF(1).
(2)	S.I. 1993/744 r.46ZF(2).
210	
(1), (2)	S.I. 1993/744 r.46ZG(1) (part).
Table 9	S.I. 1993/744 r.46ZG(1) (part).
(3)	S.I. 1993/744 r.46ZG(2).
(4)	S.I. 1993/744 r.46ZG(3).
(5)	S.I. 1993/744 r.46ZG(4).
(6)	S.I. 1993/744 r.46ZH(2).
211	
(1)	Drafting.
(2)	S.I. 1993/744 r.20(3) (part), r.23(1) (part), (3) (part), r.25 (2) (part), r.26(1A) (part), (4) (part), r.27(1) (part), r.28(1A) (part), (5A) (part), r.29(1) (part), r.30(1) (part), r.39(2) (part), r.43(1) (part), (1C) (part), (4) (part), r.46(1A) (part), (7A) (part), r.46A(1) (part), r.47(2) (part), r.65(1) (part), r.68(2) (part); r.74(1) (part), r.84(3) (part), r.88(4) (part), (5) (part), r.89(2) (part), r.90 (part), r.93(2) (part); drafting; Changes 1, 36, 57, 70.
(3)	Drafting.
(4)	S.I. 1993/744 r.20(3) (part), r.23(1) (part), r.25(2) (part), r.26(1A) (part), (4) (part), r.27(1) (part), r.28(1A) (part), (5A) (part), r.43(1) (part), (1C) (part), r.44(2) (part), r.46(1) (part), (1A) (part), (7A) (part), (7B) (part), 46A(1) (part); drafting; Change 36.
Table 10	S.I. 1993/744 r.20(2) (part), (3) (part), r.23(1) (part), (3) (part), r.25(2) (part), r.26(1A) (part), (4) (part), r.27(1) (part), r.28(1A) (part), (5A) (part), r.29(1) (part), r.30(1) (part), r.39(2) (part), r.43(1) (part), (1C) (part), (4) (part), r.44(2) (part), r.46(1) (part), (1A) (part), (7A) (part), (7B) (part), 46A(1) (part), r.47(2) (part), r.65(1) (part), r.68(2) (part), r.74(1) (part), r.84(3) (part), r.88(4) (part), (5) (part), r.89(2) (part), r.90 (part), r.93(2) (part); drafting; Changes 37, 36, 57, 70.
(5)	S.I. 1993/744 r.43(3B); Change 36.
212	
(1), (2)	S.I. 1993/744 r.26(2) (part); Change 38.
213	
(1)	Drafting.
(2)	S.I. 1993/744 r.6(4) (part), r.13(6) (part), r.33 (part); Change 5.
(3)	Drafting.
Table 11	S.I. 1993/744 r.6(4) (part), r.13(6) (part), r.33 (part); Change 5.
(4), (5)	S.I. 1993/744 r.13(6) (part); Change 5.

<i>Provision</i>	<i>Origins</i>
214	
(1)	S.I. 1993/744 r.29(1) (part), r.30(1) (part), r.84(10) (part) r.104(6) (part), (9) (part), (11) (part).
(2)	Drafting.
Table 12	S.I. 1993/744 r.29(1) (part), r.30(1) (part), r.84(10) (part), r.104(6) (part), (9) (part), (11) (part).
215	
“Form P45”	S.I. 1993/744 r.23(1), (2), (3); drafting; Change 37.
“Parts 2 and 3 of Form P45”	S.I. 1993/744 r.23(1), (2), (3), r.89(2); drafting; Change 37.
“Form P45U”	S.I. 1993/744 r.89(2); drafting; Change 37.
“Form P46”	Drafting.
216	S.I. 1993/744 r.109.
217	
(1), (2)	S.I. 1993/744 r.46ZH(1) (part).
(3)	S.I. 1993/744 r.46ZH(3).
(4)	S.I. 1993/744 r.46ZH(4).
218	
(1)	S.I. 1993/744 r.43(10), r.48(6) (part), (9), r.54(6) (part), r.55(8) (part), (10); Changes 1, 125.
(2)	Drafting.
(3)	S.I. 1993/744 r.42(8), r.49(9), r.51(4), r.80J(3); Changes 1, 125.
(4)	Drafting.
(5)	S.I. 1993/744 r.47(7); Change 1.
(6)	S.I. 1993/744 r.42(9), r.43(11), r.47(8), r.48(10), r.49(10), r.51(5), r.54(7) (part), r.55(11), 80J(4).
219	
(1)	S.I. 1993/744 r.42(7A), r.48(7A), r.52(4) (part), 80J(6), 80K(3); Change 1.
(2)	Drafting; Change 126.
220	Transitional provisions, savings and revocations
Schedule 1	
para. 15	S.I. 1993/744 r.40(1) (part), 41(1) (part).
para. 16	
(1)	S.I. 1993/744 r.46AA(3) (part), (6) (part).
(2)	S.I. 1993/744 r.46AA(3) (part), (4) (part).
(3), (4)	S.I. 1993/744 r.46AA(3) (part).
(5)	S.I. 1993/744 r.46AA(5) (part).
(6)	S.I. 1993/744 r.46AA(6) (part).
(7)	S.I. 1993/744 r.46AA(3) (part).
para. 17	
(1)	S.I. 1993/744 r.46AA(3) (part).

<i>Provision</i>	<i>Origins</i>
	(2) S.I. 1993/744 r.46AA(4) (part).
	(3), (4) S.I. 1993/744 r.46AA(6) (part).
para. 18	(1) Drafting.
	(2) S.I. 1993/744 r.40(1) (part), r.41(1) (part).
	(3) S.I. 1993/744 r.47(1) (part).
	(4) S.I. 1993/744 r.48(1) (part).
para. 19	S.I. 1993/744 r.51(1) (part).
para. 20	(1) – (3) S.I. 1993/744 r.50(1) (part).
	(4) S.I. 1993/744 r.52(2) (part).
	(5) S.I. 1993/744 r.52(1) (part).
	(6) S.I. 1993/744 r.52(3) (part), 54(1) (part), (2) (part).
	(7) S.I. 1993/744 r. 52(3) (part), 54(6) (part), (7) (part).
	(8) S.I. 1993/744 r. 52(4) (part).
	(9) S.I. 1993/744 r.2(1) (“inspector”), r.50(2), (3), r.52(1) (part).
para. 21	(1) S.I. 1993/744 r.51(1) (part).
	(2) S.I. 1993/744 r.51(1) (part).
	(3) S.I. 1993/744 r.51(2) (part).
	(4) S.I. 1993/744 r.51(1) (part).
	(5) S.I. 1993/744 r.51(3) (part).
	(6) Drafting.
para. 22	S.I. 1993/744 r.53A(1) (part).
para. 23	█
	(1), (2) S.I. 1993/744 r.53(1).
	(3) S.I. 1993/744 r.53(2).
	(4) S.I. 1993/744 r.53(3) (part).
	(5) S.I. 1993/744 r.53(5).
	(6) S.I. 1993/744 r.53(3) (part), (4).
para. 24	(3) S.I. 1993/744 r.105(2).
para. 25	█
	S.I. 1993/744 r.101(3) (part), (4) (part).
para. 28	S.I. 1993/744 r.2(1) (“collector”); drafting.

INCOME TAX (PAY AS YOU EARN) REGULATIONS 2003 (S.I. 2003/2682)

TABLE OF DESTINATIONS

This Table shows how the instruments revoked are dealt with by the Income Tax (Pay As You Earn) Regulations 2003.

The following abbreviations are used in the Table—

Statutory Instruments

S.I. 1993/744	The Income Tax (Employments) Regulations 1993
S.I. 1993/2276	The Income Tax (Employments) (Amendment) Regulations 1993
S.I. 1994/775	The Income Tax (Employments) (Amendment) Regulations 1994
S.I. 1994/1212	The Income Tax (Employments) (Notional Payments) Regulations 1994
S.I. 1994/1813	The General and Special Commissioners (Amendment of Enactments) Regulations 1994
S.I. 1995/216	The Income Tax (Employments) (Amendment) Regulations 1995
S.I. 1995/447	The Income Tax (Employments) (Amendment No.2) Regulations 1995
S.I. 1995/853	The Income Tax (Employments) (Incapacity Benefit) Regulations 1995
S.I. 1995/1223	The Income Tax (Employments) (Amendment No. 3) Regulations 1995
S.I. 1995/1284	The Income Tax (Employments) (Amendment No. 4) Regulations
S.I. 1996/804	The Income Tax (Employments) (Amendment) Regulations 1996
S.I. 1996/980	The Income Tax (Employments) (Amendment No.2) Regulations 1996
S.I. 1996/1312	The Income Tax (Employments) (Amendment No. 3) Regulations 1996
S.I. 1996/2381	The Income Tax (Employments) (Amendment No. 4) Regulations 1996
S.I. 1996/2554	The Income Tax (Employments) (Amendment No. 5) Regulations 1996
S.I. 1996/2631	The Income Tax (Employments) (Amendment No. 6) Regulations 1996
S.I. 1997/214	The Income Tax (Employments) (Amendment) Regulations 1997
S.I. 1998/640	The Profit-Related Pay (shortfall Recovery) Regulations 1998
S.I. 1998/1891	The Income Tax (Employments) (Notional Payments) (Amendment) Regulations 1998

S.I. 1998/2484	The Income Tax (Employments) (Amendment) Regulations 1998
S.I. 1999/70	The Income Tax (Employments) (Amendment) Regulations 1999
S.I. 1999/824	The Income Tax (Employments) (Amendment No.2) Regulations 1999
S.I. 1999/2155	The Income Tax (Employments) (Amendment No. 3) Regulations 1999
S.I. 2000/1152	The Income Tax (Employments) (Amendment) Regulations 2000
S.I. 2000/2742	The Income Tax (Sub-contractors in the Construction Industry and Employments) (Amendment) Regulations 2000
S.I. 2001/1081	The Income Tax (Electronic Communications) (Miscellaneous Amendments) Regulations 2001
S.I. 2002/680	The Income Tax (Employments and Electronic Communications) (Miscellaneous Provisions) Regulations 2002
S.I. 2002/1397	The Secretaries of State for Education and Skills and for Work and Pensions Order 2002
S.I. 2003/536	The Income Tax (Sub-contractors in the Construction Industry and Employments) (Amendment) Regulations 2003
S.I. 2003/2494	The Income Tax (Employments) (Amendment) Regulations 2003

Other Abbreviations

Change 1 etc.	Changes as listed in the commentary
para.	paragraph
r.	regulation
Sch.	Schedule

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation (1) “additional pay” “allowable superannuation contributions” “basic rate” “the Board” “code” “code authorisation” “collector”	2(1) (“additional pay”) 3(2) (“allowable pension contributions”) 2(1) (“basic rate”) 2(1) (“Board of Inland Revenue”) 2(1) (“code”), 7(1) 2(1) (“employee’s code”), 8(1) 2(1) (“Inland Revenue”); Schedule 1 para. 28 (“collector”)	

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
“cumulative additional pay”	2(1) (“total additional pay to date”)	
“cumulative emoluments”	2(1) (“total payments to date”)	
“cumulative free emoluments”	2(1) (“total free pay to date”)	
“cumulative tax”	2(1) (“total tax to date”)	
“cumulative taxable emoluments”	2(1) (“total taxable payments to date”)	
“deductions working sheet”	2(1) (“deductions working sheet”)	
“earnings-related contributions”	69(3) (“earnings-related contributions”)	
“electronic communications”	2(1), 189 (“electronic communications”), 2(1), 189	Inserted S.I. 2001/1081 r.8(2); amended S.I. 2002/680 r.4(a). See Change 10.
“approved”	(“approved method of electronic communications”)	
“emoluments”	2(1) (“net PAYE income”), 3(1), (2)	Revoked in part S.I. 1993/2276 r.3(a). Part unnecessary.
“employed earner”, “employed earner’s employment”	70(4)	
“employee”	2(1) (“agency worker”, “employment”, “other payee”, “payee”, “pensioner”), 10(1), (4), 11, 12(1), (2), (4)	See Change 7.
“employer”	2(1) (“agency”, “employment”, “other payer”, “payer”, “pension payer”), 10(1), (4), 11, 12(1), (2)	See Change 7.
“free emoluments”	2(1) (“free pay”)	
“higher rate”	2(1) (“higher rate”)	
“income tax month”	2(1) (“tax month”)	
“income tax period”	2(1) (“tax period”)	
“income tax quarter”	2(1) (“tax quarter”)	
“inspector”	2(1) (“Inland Revenue”); Schedule 1 para. 20 (“inspector”)	
“lower rate”	—	Unnecessary.
“the Management Act”	2(1) (“TMA”)	
“notice”	2(1) (“notice”)	
“official computer system”	2(1) (“official computer system”), 189 (“official computer system”)	Inserted S.I. 2001/1081 r.8(2).
“overriding limit”	2(1) (“overriding limit”)	
“pension emoluments”	2(1) (“PAYE pension income”), 6	
“previous cumulative tax”	23(8) (“previous total tax to date”)	
“reliefs from income tax”	2(1) (“reliefs from income tax”)	

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
“starting rate”	2(1) (“starting rate”)	Inserted S.I. 1999/2155 r.8.
“tax not deducted”	2(1) (“tax not deducted because of the overriding limit”)	
“tax tables”	2(1) (“tax tables”)	
“simplified tax tables”	34(3) (“simplified tax tables”)	
“taxable emoluments”	2(1) (“taxable payments”)	
“the Taxes Act”	2(1) (ICTA)	
“total net tax deducted”	2(1) (“total net tax deducted”)	
“trade dispute”	2(1) (“trade dispute”)	
“year”, “current year”	2(1) (“tax year”)	
(2)	—	Unnecessary.
(3)	4(1), (2)	Inserted S.I. 1993/2276 r.3(b).
(4)	189	Part unnecessary: substituted S.I. 2001/1081 r.8(3).
(4A)	—	Revoked S.I. 2002/680 r.4(b).
(5)	—	Revoked S.I. 2002/680 r.4(b).
(5A)	—	Revoked S.I. 2002/680 r.4(b).
(6)	—	Revoked S.I. 2002/680 r.4(b).
2A	Whether information transmitted electronically or delivered by means of electronic communications	
	192	Inserted S.I. 2002/680 r.5.
2B	Proof of content of an electronic transmission and of information delivered electronically	
		Inserted S.I. 2002/680 r.5.
(1)	193(1)	
(2)	193(1)	
(3)	193(2)	
2C	Proof of identity of sender or recipient of information	
		Inserted S.I. 2002/680 r.5.
(1)	194	
(2)	194	
2D	Proof of delivery of information and payments	
		Inserted S.I. 2002/680 r.5.
(1)	196(1), 197(1)	Amended S.I. 2003/2494 r.3(2).
(2)	196(2), 197(2)	Amended S.I. 2003/2494 r.3(2).
(3)	196(3), 197(3)	Amended S.I. 2003/2494 r.3(2).
(4)	196(1), (2), (3)	Inserted S.I. 2003/2494 r.3(3).
2E	Use of unauthorised means of electronic communications	
		Inserted S.I. 2002/680 r.5.
(1)	198(1)	
(2)	198(2)	

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
3	Multiple employers		
	(1)	98(1), (2), (11)	Amended S.I. 2003/2494 r.4.
	(2)	98(4)	Amended S.I. 2003/2494 r.4(2).
	(3)	98(5), (8)	
	(4)	98(6), (7)	
	(5)	98(9), (10)	
	(6)	99(1)	Inserted S.I. 2003/2494 r.4(3).
	(7)	99(2)	Inserted S.I. 2003/2494 r.4(3).
	(8)	99(3), (4), (5)	Inserted S.I. 2003/2494 r.4(3).
	(9)	99(6)	Inserted S.I. 2003/2494 r.4(3).
4	Intermediate employers	—	Revoked FA 1994 s.133(1)
5	Troncs		
	(1)	100(1), (7)	
	(2)	100(3)	Revoked in part S.I. 1994/775 r.3(a).
	(3)	100(4)	Amended S.I. 1994/775 r.3(b); S.I. 1996/1312 r.3(a).
	(4)	100(5)	Inserted S.I. 1994/775 r.3(c).
	(4A)	100(4)	Inserted S.I. 1996/1312 r.3(b). Part unnecessary.
	(5)	100(7)	Inserted S.I. 1994/775 r.3(c).
6	Deduction and repayment of tax under appropriate code		
	(1)	21(1), 62(2)	
	(2)	21(1)	
	(3)	21(2)	
	(4)	8(2), 213(2), Table 11, (4)	Inserted S.I. 1998/2484 r.4(2); amended S.I. 2001/1081 r.9; S.I. 2002/680 r.6.
7	Determination of appropriate code by inspector		
	(1)	13, 14(1)	
	(2)	14(1), (2)	Revoked in part S.I. 1996/1312 r.4; amended S.I. 1999/2155 r.3.
	(3)	14(2)	
8	Code applicable where code authorisation is not issued or received		
	(1)	16(1)	
	(2)	16(2)	
	(3)	—	Spent.
	(4)	—	Spent.
	(5)	20(7)	
9	Coding at the higher rate or where no tax is deductible		
	(1)	7(3), 15(1)	

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
	(2)	7(3), 15(3)	Amended S.I. 1996/1312 r.5.
	(3)	7(3)	See Change 4.
10	Notice of coding		
	(1)	17(1), (2)	
	(2)	17(2)	Amended S.I. 1999/2155 r.4, r.20.
11	Objections and appeals against coding		
	(1)	18(1)	
	(2)	18(2), (3)	
	(3)	18(5)	Amended S.I. 1996/1312 r.6.
	(4)	—	Unnecessary.
	(5)	18(4)	
	(6)	—	Unnecessary; Amended S.I. 1994/1813 r.2 (1), Sch. 1 para. 37.
	(7)	—	Unnecessary.
12	Amendments of coding		
	(1)	19(1), (2)	
	(2)	19(3)	
	(3)	19(4)	Amended S.I. 1999/2155 r.4, r.21.
	(4)	19(5)	
13	Notice to employer of amended coding		
	(1)	20(1), (2)	Amended S.I. 2002/680 r.7(a).
	(2)	20(3)	
	(3)	—	Spent.
	(4)	20(4), (5), (6)	Amended S.I. 1999/2155 r.5, r.22.
	(5)	20(7)	Spent in part.
	(6)	8(1), 20(8), 213(2), Table 11, (4), (5)	Inserted S.I. 2002/680 r.7(b).
14	Calculation and making of deduction or repayment		
	(1)	22, 23(2), (3), 31(4)	Part unnecessary. See Change 20.
	(2)	23(2), (4), (5), 28(5), 29(2), 29(5), 34(2)	Amended S.I. 1994/1212 r.9.
	(3)	23(6)	
	(4)	23(7)	
15	First payment in the year		
		23(2), (4), (5).	Amended S.I. 1994/1212 r.9.
16	Deductions in accordance with regulation 9		
	(1)	32(1), 33	
	(2)	32(1), 33, 66(3)	
	(3)	33(2)	

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
17	Deduction in special cases		
	(1)	24(6), 26(1), 31(1), 25(5), 55(2), 56(5)	
	(2)	26(2), 27(1)	
	(3)	66(4), (7)	
	(4)	66(8)	
18	Emoluments not paid weekly or monthly	24(1) – (5), 30	
19	Subsidiary emoluments of employee paid monthly or at greater intervals		
	(1)	25(1), (3)	
	(2)	25(2), (4)	
20	Employee on fixed pay		
	(1)	34(1), (3)	
	(2)	34(1), 35(1), (2)	
	(3)	35(4), 211(4), Table 10	Amended S.I. 2002/680 r.8.
	(4)	35(4), 211(2), (4), Table 10	
21	Aggregation of emoluments in non-cumulative cases	29(1), (2), (4), (5), 34(2)	
22	Tax-free emoluments	—	Unnecessary. See Change 19.
23	Cessation of employment		
	(1)	2(1) (“Form P45”), 36(1), 211, (2), (4), Table 10, 215	Amended S.I. 1998/2484 r.5(2); S.I. 2001/1081 r.10.
	(2)	36(4), Table 2	Amended S.I. 1996/804 r.3(a).
	(3)	36(2), (4), Table 2	Amended S.I. 1996/804 r.3(b); S.I. 1998/2484 r.5(3).
	(4)	—	Amended S.I. 1996/804 r.3(b); S.I. 1998/2484 r.5(3). Unnecessary.
24	Emoluments paid after employment ceased		
	(1)	37(1)	Amended S.I. 1998/2484 r.6(2).
	(2)	37(2) – (6), 62(2)	
25	Commencement of subsequent employment		
	(1)	40(1), 42(1), (3)	Revoked in part S.I. 1996/804 r.4(a); amended S.I. 1998/2484 r.7(2).
	(2)	42(7), (8), 52(2), (3), 211(2), (4), Table 10	Amended S.I. 1998/2484 r.7(2), (3); S.I. 2001/1081 r.11.
	(3)	42(2), 43(1), (3), 52(4), (5)	Amended S.I. 1998/2484 r.7(2).
	(4)	43(4), (5), (6), (7), 52(6), (7), (8), (9)	Amended S.I. 1998/2484 r.7(2).
	(5)	43(5), 52(10)	Amended S.I. 1996/804 r.4(b).
	(6)	—	Revoked S.I. 1996/804 r.4(c).

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
(7)	43(11), 52(13)	Amended S.I. 1998/2484 r.7(2).
(8)	42(4), (5), 44(1), 45(1), (2)	Amended S.I. 1998/2484 r.7(2).
(9)	43(7), 44(2)	Amended S.I. 1998/2484 r.7(2).
(10)	—	Amended S.I. 1998/2484 r.7(2). Spent.
(11)	40(4), (5)	Amended S.I. 1998/2484 r.7(2).
26	Pension emoluments	
(1)	36(3), 55(1), (2), (3)	Amended S.I. 1998/2484 r.8(2); S.I. 2001/1081 r.12(2).
(1A)	55(3), 211, (2), (4), Table 10	Inserted S.I. 2001/1081 r.12(3).
(2)	55(4)	Amended S.I. 1996/804 r.5(b).
(3)	56(1), (2)	Amended S.I. 1996/804 r.5(c); S.I. 1998/2484 r.8(3); S.I. 2001/1081 r.12(4).
(4)	56(3), 211(2), (4), Table 10	Inserted S.I. 2001/1081 r.12(5).
27	Death of employee	
(1)	38(1), (2), 39(1), (2), 180(1), (2), 211(2), (4), Table 10	Amended S.I. 1998/2484 r.9(2); S.I. 2001/1081 r.13.
(2)	38(3), 39(3), (4), (5), 180(3), (4), (5)	Amended S.I. 1998/2484 r.9(3).
28	Employee for whom appropriate code not known	
(1)	9(1) – (6), Table 1, (9), 46(1), 47(2), 48(2), 49(2), 58(1)	Amended S.I. 1998/2484 r.10(2); S.I. 2001/1081 r.14(2).
(1A)	46(3), (4), 47(2), 48(2), 49(2), 58(3), (4), 211(2), (4), Table 10	Inserted S.I. 2001/1081 r.14(3).
(1B)	46(3), (5), 58(4), (5)	Inserted S.I. 2001/1081 r.14(3).
(2)	2(1) (“PAYE threshold”), 9(7), (8)	Amended S.I. 1999/2155 r.6.
(3)	—	Amended S.I. 1998/2484 r.10(3). Unnecessary.
(4)	46(1), (7), 58(1)	Amended S.I. 1998/2484 r.10(4).
(5)	57(1), (2)	Amended S.I. 1998/2484 r.10(5); S.I. 2001/1081 r.14(4).
(5A)	57(2), 211(2), (4), Table 10	Inserted S.I. 2001/1081 r.14(5).
(5B)	57(3)	Inserted S.I. 2001/1081 r.14(5).
(6)	—	Revoked S.I. 2001/1081 r.14(6).
29	Employee taking up employment after full-time education	
(1)	46(2), 47(1), 211(2), Table 10	Substituted S.I. 1996/2554 r.3.
(2)	7(3), 47(2)	Amended S.I. 1993/2276 r.5; S.I. 1999/2155 r.9.
(3)	7(3), 47(3)	Amended S.I. 1993/2276 r.5; S.I. 1999/2155 r.9.

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	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
30	Employee taking up only or main employment		
	(1)	46(2), 48(1), 211(2), Table 10	Substituted S.I. 1996/2554 r.4.
	(2)	7(3), 48(2)	Amended S.I. 1993/2276 r.5; S.I. 1999/2155 r.10.
	(3)	7(3), 48(3)	Amended S.I. 1993/2276 r.5; S.I. 1999/2155 r.10.
	(4)	—	Amended S.I. 1996/804 r.6; S.I. 1998/2484 r.11(2). Unnecessary.
31	Other new employees		
	(1)	49(1), 58(2)	
	(2)	49(2)	
	(3)	58(2)	
	(4)	49(3), 58(2)	
32	Initial procedure when payments made to employee for whom appropriate code not known	7(3), 45(2), 50, 59	Amended S.I. 1993/2276 r.5; S.I. 1999/2155 r.11.
33	Subsequent procedure on issue of code authorisation	53, 61	
34	Subsequent procedure on presentation of copies of certificate		
	(1)	51(1), (2), (3), 60(1)	Amended S.I. 1998/2484 r.12(2). Revoked in part S.I. 1996/804 r.7(a).
	(2)	42(1), (7), 51(5), 52(2), (3), (5), (6), (7), (9), (11), (12), 60(2), (3), (4), (5)	Revoked in part S.I. 1996/804 r.7(b).
	(3)	51(6), (7), 60(2), (3), (4), (5)	
	(4)	—	Spent. See Change 55.
35	Repayment during absence from work through sickness etc.		
	(1)	63(1), (2)	
	(2)	63(1)	
	(3)	63(1)	
36	Trade disputes		
	(1)	64(1)	
	(2)	64(1), (2), (3)	
	(3)	64(5), (6), (11)	
	(4)	64(7)	
	(5)	64(8)	
	(6)	64(9), (10)	
	(7)	64(11)	Amended S.I. 2002/1397 art. 12, Schedule para. 25(2).
37	Repayment after cessation of employment		
	(1)	65(1)	

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<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
(2)	65(1), (2), (3), (4), (8)	Revoked in part S.I. 1996/804 r.8; amended S.I. 1998/2484 r.13(2).
(3)	65(5), (6), (7)	
38	Deductions working sheets etc.	
(1)	66(1), (2)	
(2)	66(3)	
(3)	66(4)	
(4)	66(5), (6)	
39	Certificate of tax deducted	
(1)	67(1)	Amended S.I. 1995/1284 r.3.
(2)	67(2), 211(2), Table 10	
(3)	67(3)	
40	Payment of tax monthly by employer	
(1)	68(2), (6), 69(1), Schedule 1 paras. 15, 18(2)	Amended S.I. 2003/2494 r.5.
(2)	68(2), (4), (5), 71(2), (3), (5)	Amended S.I. 1993/2276 r.6.
41	Payment of tax quarterly by employer	
(1)	68(2), (6), 69(1), 70(1), Schedule 1 paras. 15, 18(2)	Amended S.I. 2003/2494 r.6.
(2)	68(2), (4), (5), 71(2), (3), (5)	Amended S.I. 1993/2276 r.7.
(3)	70(1), (2), (3)	Substituted S.I. 2003/536 r.9.
42	Payment of tax by employer – further provisions	
(1)	69(2), (3)	
(2)	72(1), (2), (3), (5), (6)	Amended S.I. 1995/447 r.3(a).
(3)	72(1), (2), (4), (5), (6)	Amended S.I. 1995/447 r.3(b).
(4)	72(7), (8)	
(5)	—	Revoked S.I. 1995/447 r.3(c).
(6)	68(3), (4), 71(4)	
(7)	64(8)	
(7A)	219(1)	Inserted S.I. 1996/980 r.3.
(8)	218(3)	
(9)	218(6)	
42A	Mandatory electronic payment	
(1)	190(3); 199(1); 200(2)	Inserted S.I. 2003/2494 r.7.
(2)	190(1), (2); 191(1); 199(2); 200(1)	
(3)	191(3)	
(4)	200(3), (4), (5)	
(5)	199(3)	

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<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
42B	Default surcharge	
(1)	201(1), (2), (3)	Inserted S.I. 2003/2494 r.7.
(2)	201(2)	
(3)	201(5)	
(4)	201(3)	
(5)	201(4)	
(6)	202(1)	
(7)	202(2), (3), (4)	
(8)	202(5)	
(9)	203(1), (2)	
(10)	203(3), (4), Table 8, (5)	
(11)	204(1), (2), (3)	
(12)	204(4), (5)	
(13)	204(6)	
(14)	204(7)	
(15)	204(8)	
(16)	203(6)	
(17)	203(7)	
43	Return by employer at end of year where deductions working sheets required	
(1)	73(1), 211(2), (4), Table 10	Amended S.I. 1998/2484 r.14(2); S.I. 2001/1081 r.15(2).
(1A)	73(2), (5)	Inserted S.I. 1998/2484 r.14(3).
(1B)	73(3), (6)	Inserted S.I. 1998/2484 r.14(3).
(1C)	211(2), (4), Table 10	Substituted S.I. 2001/1081 r.15(3).
(2)	73(4), (5)	Amended S.I. 1998/2484 r.14(4).
(3)	73(7)	Substituted S.I. 2001/1081 r.15(4).
(3A)	73(7), (9)	Inserted S.I. 2001/1081 r.15(4).
(3B)	73(9), 211(5)	Inserted S.I. 2001/1081 r.15(4).
(4)	73(7), (8), 211(2), Table 10	
(5)	73(7), (8)	
(6)	73(6)	Amended S.I. 1998/2484 r.14(5).
(7)	73(8)	
(8)	76(1), (2)	
(9)	84(3) Table 4	
(10)	218(1)	
(11)	218(6)	
(12)	73(10)	
44	Return by employer where deductions working sheets not required	
		Substituted S.I. 2001/1081 r.16.
(1)	74(1), (3), (4)	
(2)	74(1), 211(4), Table 10	

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	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
45	Additional return in cases involving a trade dispute		
	(1)	75(1), (2), (3)	
	(2)	75(1)	
	(3)	75(2)	
	(4)	75(3)	
46	Return of other additional emoluments		
	(1)	85(1), 86(1), (2), (3), 87(1), (2), (3), 211(4), Table 10	Substituted S.I. 1995/1284 r.4. Amended S.I. 1998/2484 r.15(2); S.I. 2001/1081 r.17(2); S.I. 2003/2494 r.4.
	(1A)	211(2), (4), Table 10	Substituted S.I. 2001/1081 r.17(3).
	(2)	86(1)	
	(3)	87(1)	
	(4)	86(3), 87(3)	
	(5)	86(1), 87(1)	
	(6)	88(1), (2)	
	(7)	86(2), 87(2), 89	Amended S.I. 1998/2484 r.15(4).
	(7A)	85(2), 211(2), (4), Table 10	Inserted S.I. 1998/2484 r.15(5).
	(7B)	85(2), 211(4), Table 10	Inserted S.I. 2001/1081 r.17(4).
	(8)	86(4), 87(4)	
46AA	Other additional emoluments – information to be provided to employee by employer		
	(1)	94(1), (2)	Inserted S.I. 1995/1284 r.4. Amended S.I. 1998/2484 r.16(2); S.I. 2001/1081 r.18(2).
	(2)	94(3)	
	(3)	94(4), (5), Schedule 1 para. 16(1), (2), (3), (4), (7), 17(1)	Amended S.I. 1996/1312 r.7; S.I. 1998/2484 r.16(2); S.I. 2001/1081 r.18(3).
	(4)	94(2), Schedule 1 para. 16(2), 17(2)	
	(5)	94(6), Schedule 1 para. 16(5)	
	(6)	94(7), Schedule 1 para. 16(1), (6), 17(3), (4)	Amended S.I. 1998/2484 r.16(3).
46AB	Other additional emoluments – information to be provided to employee by other persons		
	(1)	95(1), (3)	Inserted S.I. 1995/1284 r.4. Revoked in part S.I. 1998/2484 r.17(2).
	(2)	95(2)	
	(3)	95(2)	
	(4)	95(3)	Revoked in part S.I. 1998/2484 r.17(2).
46A	Return where a car is made available		
	(1)	90(1), (2), 211(2), (4), Table 10	Inserted S.I. 1994/775 r.4. Amended S.I. 2001/1081 r.19(2).

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<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
(1A)	—	Revoked S.I. 2001/1081 r.19(3).
(2)	90(1)	
(3)	90(3)	
(4)	90(3)	
(5)	90(4)	
46ZA	Termination payments and other benefits – information to be provided	Inserted S.I. 1999/70 r.3.
(1)	91(1), (2)	
(2)	91(3)	
(3)	91(4)	
(4)	91(5)	
(5)	92(1), (2)	
(6)	92(3)	
(7)	96(1), (2)	
(8)	96(3)	
(9)	92(4), (5)	
(10)	91(8), 92(7), 96(4), 93(1), (2)	
(11)	91(6), (7)	
(12)	91(9)	
46ZB	Information delivered electronically on another's behalf	Inserted S.I. 2001/1081 r.20.
	195	
46ZC	Mandatory use of electronic communications	Inserted S.I. 2003/2494 r.8.
(1)	205(1)	
(2)	205(3)	
(3)	205(2)	
(4)	205(4)	
46ZD	Specified persons	Inserted S.I. 2003/2494 r.8.
(1)	206(1)	
(2)	206(1), (2)	
(3)	206(2)	
(4)	190(1), (2), (3); 191(1), (2), (3); 206(1), (3); 208(1)	
(5)	208(2), (3), (4)	
46ZE	Specified information	Inserted S.I. 2003/2494 r.8.
(1)	205(5); 207(1)	
(2)	207(2)	
46ZF	Standards of accuracy and completeness	Inserted S.I. 2003/2494 r.8.
(1)	209(1)	
(2)	209(2)	

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<i>Existing provision</i>		<i>Rewritten provision</i>	<i>Remarks</i>
46ZG	Penalties		Inserted S.I. 2003/2494 r.8.
	(1)	210(1), (2), Table 9	
	(2)	210(3)	
	(3)	210(4)	
	(4)	210(5)	
46ZH	Appeals		Inserted S.I. 2003/2494 r.8.
	(1)	217(1), (2)	
	(2)	210(6)	
	(3)	217(3)	
	(4)	217(4)	
47	Notice and certificate when tax not paid		
	(1)	77(1), (2), Schedule 1 para. 18(3)	Amended S.I. 2003/2494 r.9.
	(2)	77(4), 211(2), Table 10	
	(3)	77(5)	
	(4)	77(3)	
	(5)	77(6)	
	(6)	84(3), Table 4	
	(7)	218(5)	
	(8)	218(6)	
48	Notice of specified amount and certificate when tax not paid		
	(1)	78(1), (2), Schedule 1 para. 18(4)	Revoked in part S.I. 1995/447 r.4(a); amended S.I. 2003/2494 r.10.
	(2)	78(4)	
	(3)	78(5)	
	(4)	78(3)	
	(5)	78(6), (7)	
	(6)	78(4), (8), 84(3), Table 4, 218(1)	Amended S.I. 1995/447 r.4(b).
	(7)	78(9)	
	(7A)	219(1)	Inserted S.I. 1996/980 r.4(1)(a), (2).
	(8)	—	Revoked S.I. 1995/447 r.4(c).
	(9)	218(1)	
	(10)	218(6)	
	(11)	78(10), (11)	
	(12)	78(12), (13)	
49	Formal determination of tax payable by employer		
	(1)	80(1)	
	(2)	80(2)	
	(3)	80(3)	
	(4)	80(4)	
	(5)	81(1), (2), (3), (4), (5)	Amended S.I. 1995/447 r.5.

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	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
	(6)	81(6), (7)	
	(7)	80(5)	Amended S.I. 1999/2155 r.7.
	(8)	80(6)	Substituted S.I. 1996/1312 r.8(1).
	(9)	218(3)	
	(10)	218(6)	
50	Interest on unpaid tax which has formally been determined		
	(1)	Schedule 1 para. 20(1), (2), (3)	
	(2)	Schedule 1 para. 20(9)	
	(3)	Schedule 1 para. 20(9)	
51	Interest on tax overdue – general		
	(1)	82(1), (2), (6), Schedule 1 para. 19, 21(1), (2), (4)	Amended S.I. 2003/2494 r.11(2).
	(2)	82(4), Schedule 1 para. 21(3)	
	(3)	2(1) (“reckonable date”), 82(8), Schedule 1 para. 21(5)	Amended S.I. 2003/2494 r.11(3).
	(4)	218(3)	
	(5)	218(6)	
52	Interest on tax overdue – further provisions		
	(1)	82(5), (7), Schedule 1 para. 20(5), (9)	
	(2)	82(3), Schedule 1 para. 20(4)	
	(3)	84(3), Table 4, Schedule 1 para. 20(6), (7)	
	(4)	219(1), Schedule 1 para. 20(8)	Inserted S.I. 1996/980 r.5.
53	Interest on tax overpaid by employer		
	(1)	Schedule 1 para. 23(1), (2)	Amended S.I. 1996/1312 r.9.
	(2)	Schedule 1 para. 23(3)	
	(3)	Schedule 1 para. 23(4), (6)	
	(4)	Schedule 1 para. 23(6)	
	(5)	Schedule 1 para. 23(5)	Inserted S.I. 1996/980 r.4(1)(b), (2).
53A	Interest on tax overpaid by employer – 1996-97 and subsequent years		
	(1)	83(1), (2), Schedule 1 para. 22	Inserted S.I. 1996/1312 r.10.
	(2)	83(3), (4)	
54	Recovery of tax		
	(1)	84(1), (2), Schedule 1 para. 20(6)	
	(2)	84(1), Schedule 1 para. 20(6)	
	(3)	84(3)	
	(4)	84(4), (5)	Amended S.I. 1995/1223 r.2.
	(5)	84(6)	

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<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
(6)	77(6), 218(1), Schedule 1 para. 20(7)	
(7)	218(6), Schedule 1 para. 20(7)	
55	Inspection of employer's records	
(1)	97(1)	
(2)	97(1), (2)	Amended S.I. 1995/447 r.6; S.I. 1998/2484 r.19(2); S.I. 2001/1081 r.21.
(3)	97(3)	
(4)	97(4)	
(5)	97(5)	
(6)	97(6)	
(7)	97(7)	
(8)	79(2), 218(1)	
(9)	84(3), Table 4	
(10)	218(1)	
(11)	218(6)	
(12)	97(8)	
56	Interpretation of Chapter I	
	118(1), (2)	
57	Councillor's option to have tax deducted at basic rate	
(1)	119(1)	
(2)	119(1)	
(3)	119(2)	
(4)	119(3)	
(5)	119(4), (5), (6)	
(6)	120(1), (2)	
(7)	120(3)	
58	Application of Part V of these Regulations	
	—	Unnecessary.
59	Interpretation of Chapter II	
(1)	122(1)	Amended S.I. 1997/214 r.3.
(2)	122(2)	Substituted S.I. 1997/214 r.4.
(3)	122(2)	Inserted S.I. 1997/214 r.4.
60	Disapplication of Parts III and IV of these Regulations	
	123(1)	
61	Deduction of tax	
(1)	124(1)	

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<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
(2)	124(2)	
(3)	—	Unnecessary.
(4)	124(3)	
62	Determination by inspector	
(1)	125(1), (2)	
(2)	125(3)	
(3)	125(4)	
63	Objections and appeals	
(1)	126(1)	
(2)	126(2), (4)	
(3)	126 (5), (6)	
(4)	126(7)	
(5)	127(4)	Amended S.I. 1996/1312 r.11.
(6)	127(4)	
(7)	127(1), (2)	
(8)	—	Unnecessary
(9)	127(3)	
64	Amended determinations	
(1)	128(1), (2)	
(2)	128(3)	
(3)	128(4)	
65	Certificate of tax deducted	
(1)	129(1); 211(2), Table 10	Amended S.I. 1993/2276 r.11.
(2)	129(2)	
66	Repayment to reservist during the year	
(1)	130(1)	
(2)	130(2)	
(3)	130(3)	
67	Ministry records	
(1)	131(1)	
(2)	131(2)	
68	End of year certificate	
(1)	132(1), (2)	Amended S.I. 1996/1312 r.12.
(2)	132(3); 211(2), Table 10	
(3)	132(1)	
69	Application of Parts V and VIII of these Regulations	
	—	Unnecessary.
70	Other emoluments of reservist	
	133	

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	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
71	Interpretation of Chapter III	134	
72	Disapplication of Parts III and IV of these Regulations	135(1)	
73	Deduction of tax	136	
74	Certificate of tax deducted (1) (2)	137(1); 211(2), Table 10 137(2)	
75	Repayment to recipient during the year (1) (2) (3)	138(1) 138(2) 138(3)	
76	Fund records (1) (2)	139(1) 139(2)	
77	Application of Parts V and VIII of these Regulations	—	Unnecessary.
78	Other emoluments of recipient	140	
79	Death of employer	101(1), (2), (3)	
80	Succession to a business, etc. (1) (2) (3) (4) (5)	102(1), (2), (9) 102(3), (4) 102(5), (6), (7) 104(1), (2), (3), (4), (5) 102(8)	
80ZA	Payment for assignment or release of a right to acquire shares	—	Inserted S.I. 1994/1212 r.12A. Spent.
80A	General provision (1) (2) (3) (4)	105(1), (2) 105(3) 106(1), (2), (3), (5) 106(3)	Inserted S.I. 1996/2631 r.4.

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<i>Existing provision</i>		<i>Rewritten provision</i>	<i>Remarks</i>
	(5)	107(7)	Amended S.I. 1998/2484 r.20(2).
80B	Form of agreement		Inserted S.I. 1996/2631 r.4.
	(1)	111(1), (2)	
	(2)	111(2)	
80C	Commencement of agreement		Inserted S.I. 1996/2631 r.4.
	(1)	112(1)	
	(2)	112(2)	
80D	Variation of agreement		Inserted S.I. 1996/2631 r.4.
	(1)	113(1), (3)	
	(2)	113(2)	
	(3)	113(3)	
80E	Emoluments comprised in agreement and liability to tax – consequential provisions		Inserted S.I. 1996/2631 r.4.
	(1)	107(1), (2)	
	(2)	107(5), (6)	
	(3)	107(3)	
	(4)	107(4)	
80F	Calculation of tax payable under agreement		Inserted S.I. 1996/2631 r.4.
	(1)	108(1)	
	(2)	108(2)	Amended S.I. 1999/2155 r.12.
	(3)	108(3)	
	(4)	108(3)	
80G	Payment of tax		Inserted S.I. 1996/2631 r.4.
	(1)	109(1)	
	(2)	109(2)	
	(3)	109(3)	
	(4)	109(3)	
	(5)	109(4)	
	(6)	109(5), (6)	
80H	Formal determination of tax payable by the employer		Inserted S.I. 1996/2631 r.4.
	(1)	110(1)	
	(2)	110(2), (3)	
	(3)	110(4)	
	(4)	110(5)	

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<i>Existing provision</i>		<i>Rewritten provision</i>	<i>Remarks</i>
80J	Interest on unpaid tax		Inserted S.I. 1996/2631 r.4.
	(1)	115(1), (2)	
	(2)	115(1), (2)	
	(3)	218(3)	
	(4)	218(6)	
	(5)	115(4), (6)	
	(6)	219(1)	
	(7)	115(3)	
	(8)	115(5)	
80K	Interest on overpaid tax		Inserted S.I. 1996/2631 r.4.
	(1)	116(1), (2)	
	(2)	116(3), (4)	
	(3)	219(1)	
80L	Review of agreements		Inserted S.I. 1996/2631 r.4.
	(1), (2)	—	Unnecessary.
80M	Cancellation of agreement		Inserted S.I. 1996/2631 r.4.
	(1)	114(1), (2), (3)	
	(2)	114(1)	
	(3)	114(4)	
80N	Inspection and retention of records		Inserted S.I. 1996/2631 r.4.
	(1)	117(1)	
	(2)	117(1), (2)	
	(3)	117(3)	
	(4)	117(4)	
	(5)	117(5)	
	(6)	117(6)	
	(7)	117(7)	
	(8)	117(8)	
81	Interpretation of Part VII		Amended S.I. 1995/853 r.4; S.I. 1996/2381 r.3.
		148 (“claim”, “claimant”, “jobseeker’s allowance”, “taxable jobseeker’s allowance”), 173 (“claim”, “claimant”, “incapacity benefit”, “taxable incapacity benefit”)	
82	Application of other Parts of these Regulations		
	(1)	150(1), 174(1)	Amended S.I. 1995/853 r.5(a)

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
	(2)	150(2), Table 5, 174(2), Table 7	Amended S.I. 1993/2276 r.12; S.I. 1995/853 r.5(b).
83	Interpretation of Chapter II		
	(1)	148 (“Department”)	Amended S.I. 1996/2381 r.4.
	(2)	—	Revoked S.I. 1996/2381 r.4.
	(3)	150(3)	
84	Procedure on making claim		
	(1)	151(1)	Amended S.I. 1996/804 r.9(a); S.I. 1998/2484 r.21(2).
	(2)	151(1)	Amended S.I. 1996/804 r.9(a).
	(3)	152(1), (2), 153(1), (2), (3), (4), (9)	Amended S.I. 1998/2484 r.21(3).
	(4)	—	Revoked S.I. 1996/804 r.9(b).
	(5)	153(5), (6)	Amended S.I. 1998/2484 r.21(3).
	(6)	153(7)	Amended S.I. 1998/2484 r.21(3).
	(7)	7(3), 152(3), 153(8), 154(1)	Amended S.I. 1993/2276 r.5; S.I. 1996/804 r.9(c); S.I. 1998/1484 r.21(3); S.I. 1999/2155 r.13.
	(8)	151(2)	Amended S.I. 1996/804 r.9(d); S.I. 1998/2484 r.21(4).
	(9)	154(2)	Amended S.I. 1998/2484 r.21(5).
	(10)	154(3), 214(1), Table 12	
85	Determinations and notifications by the inspector		
	(1)	150(1)	
	(2)	155(1), (2)	
86	Quarterly attenders	—	Unnecessary.
87	Determination and recording of amount of taxable benefit	156	
88	End of year		
	(1)	157(1), (2)	Amended S.I. 1996/1312 r.12.
	(2)	157(3)	
	(3)	160(1)	
	(4)	157(4)	
	(5)	157(5)	Revoked in part S.I. 1996/804 r.10.
89	Termination of claim		
	(1)	158(1)	See Change 103.
	(2)	215 (“Form P45U”), 158(2), 159(1), (2), (3), (4)	Amended S.I. 1996/804 r.11.

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
	(3)	158(3), (4)	
	(4)	158(5)	
90	Notification of taxable benefit adjustment	160(1), (2)	
91	Tax calculation		
	(1)	161(1), (2), (5)	Amended S.I. 1996/804 r.12(a).
	(2)	161(4)	
	(3)	161(3)	Revoked in part S.I. 1996/804 r.12(b).
	(4)	158(2), 162(1)	
	(5)	162(1), (2), (3)	Amended S.I. 1998/2484 r.22(2).
	(6)	161(5)	
92	Death of claimant		
	(1)	163(1), (2)	Amended S.I. 1996/804 r.13.
	(2)	163(3)	Amended S.I. 1993/2276 r.13.
93	Finance		
	(1)	164(1)	
	(2)	164(2)	
94	Interpretation of Chapter III		
		148 (“Department”)	Amended S.I. 2002/1397 art. 12, Schedule para. 25(3).
95	Benefit paid by the paying Department direct to the claimant	166(1), (2)	
96	Benefit paid by employer		
	(1)	167(1)	
	(2)	167(2)	
	(3)	167(3)	
	(4)	168(1)	
	(5)	168(2), (3)	
97	Termination of claim		
	(1)	169	
	(2)	170(2), 171(1)	
98	Adjustments	172(1), (2)	
98A	Interpretation of Chapter IV		
		173 (“Department”)	Inserted S.I. 1995/853 r.6.

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
98B	Application of other parts of these Regulations	174(1), 174(2), Table 7, 174(4), 180(1), (3), (4), (5)	Inserted S.I. 1995/853 r.6.
98C	Deduction where appropriate code not yet determined		Inserted S.I. 1995/853 r.6.
	(1)	175(1), (2); 7(3) (“emergency IB codes”)	
	(2)	173, 175(1), (“single-income claimant”)	
	(3)	7(3) (“emergency IB codes”)	Amended S.I. 1999/2155 r.14.
	(4)	7(3) (“emergency IB codes”)	Revoked in part S.I. 1999/2155 r.18; amended S.I. 1999/2155 r.23.
98D	Return of payment of incapacity benefit		Inserted S.I. 1995/853 r.6.
	(1)	176(1)	
	(2)	176(2)	
	(3)	177(1), (2), (3)	
98E	Delivery of certificate relating to cessation of employment		Inserted S.I. 1995/853 r.6.
	(1)	178(1), (2)	Amended S.I. 1996/804 r.14; S.I. 1998/2484 r.23(2).
	(2)	178(1)	Amended S.I. 1998/2484 r.23(2).
98F	Determination of appropriate code by inspector		Inserted S.I. 1995/853 r.6.
	(1)	179(1)	
	(2)	179(3), (4)	
	(3)	179(5)	Amended S.I. 1999/2155 r.19(a), r.24; revoked in part S.I. 1999/2155 r.19(b).
	(4)	179(6)	
	(5)	174(1)	
98G	Coding where no tax is deductible		Inserted S.I. 1995/853 r.6.
	(1)	174(1), (3)	
	(2)	174(1)	
98H	Subsequent procedure on issue of code authorisation	174(1)	Inserted S.I. 1995/853 r.6.
99	Assessment	—	Substituted S.I. 1996/1312 r.13. Unnecessary.

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

<i>Existing provision</i>		<i>Rewritten provision</i>	<i>Remarks</i>
100	Appeals	—	Revoked in part S.I. 1996/1312 r.19(1).
101	Repayment of overpayments and recovery of underpayments		See Schedule 1 para. 24(1), (2) for tax years up to 1995-96.
	(1)	—	
	(2)	188(2), (6)	
	(3)	188(3), Schedule 1 para. 25	Amended S.I. 1995/447 r.7(a).
	(4)	185(4), (5), 188(3), Schedule 1 para. 25	Revoked in part S.I. 1995/447 r.7(b); S.I. 1996/1312 r.14(a)
	(5)	185(5)	
	(6)	185(5), 188(4), (5)	Inserted S.I. 1995/447 r.7(c).
	(7)	188(1), (7)	Substituted S.I. 1996/1312 r.14(b).
101A	Recovery of overpayments and recovery of underpayments – self-assessments		Inserted S.I. 1996/1312 r.15.
	(1)	185(1), (2)	
	(2)	185(3), (4), (5)	
	(3)	186(1)	
	(4)	185(3)	
102	Provisions for direct collection – general		
	(1)	141(1)	
	(2)	141(1)	Revoked in part S.I. 1996/1312 r.16(1).
	(3)	141(1)	
103	Direct collection involving assessment	—	Revoked in part S.I. 1996/1312 r.19(2). Spent.
104	Direct collection involving deductions working sheets		
	(1)	8(1), 142(1)	
	(2)	143(1), (2), 144(4)	
	(3)	144(2)	
	(4)	144(2)	
	(5)	147(1)	
	(6)	147(2), (3), 214(1), (2), Table 12	
	(7)	—	Amended S.I. 1996/1312 r.17(1)(a). Unnecessary.
	(8)	—	Revoked S.I. 1996/1312 r.17(1)(b).
	(9)	145(1), 214(1), (2), Table 12	
	(10)	145(2)	
	(11)	146(1), (3), 214(1), (2), Table 12	Amended S.I. 1996/1312 r.17(1)(c).
	(12)	146(2)	

The Income Tax (Employments) Regulations 1993 (S.I. 1993/744)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
	(13)	146(4)	
	(14)	143(4)	
	(15)	143(5)	
	(16)	146(5)	
105	Recovery of tax from employee		
	(1)	—	Unnecessary.
	(2)	Schedule 1 para. 24(3).	Revoked in part S.I. 1996/1312 r.18(1).
106	Attribution of repayments		
		—	See Schedule 1 para. 26.
107	Adjustment of overpayments and underpayments		
		—	See Schedule 1 para. 26.
108	Definitions for the purposes of regulations 106 and 107		
		—	See Schedule 1 para. 26.
109	Service by post		
		216	
110	Revocations		
		—	
111	General Savings		
		—	

The Income Tax (Employments) (Amendment) Regulations 1993 (S.I. 1993/2276)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement		
		—	Commencement.
2	Interpretation		
		—	Unnecessary.
3	Amendment to r.2 S.I. 1993/744		
	(a)	—	Revokes in part S.I. 1993/744 r.2(1) (“emoluments”).
	(b)	—	Inserts S.I. 1993/744 r.2(3).
4	Amendment to r.29, r.30 S.I. 1993/744		
		—	Spent (superseded amendment of S.I. 1993/744 r.29(1), r.30(1)).
5	Amendment to r.29, r.30, r.32, r.84 S.I. 1993/744		
		—	Amends S.I. 1993/744 r.29(2), 29(3), 30(2), 30(3), 32, 84(7).

The Income Tax (Employments) (Amendment) Regulations 1993 (S.I. 1993/2276)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
6 Amendment to r.40 S.I. 1993/744	—	Amends S.I. 1993/744 r.40(2).
7 Amendment to r.41 S.I. 1993/744	—	Amends S.I. 1993/744 r.41(2).
8 - 10 Amendment to r.46 S.I. 1993/744	—	Spent (superseded amendment of S.I. 1993/744 r.46).
11 Amendment to r.65 S.I. 1993/744	—	Amends S.I. 1993/744 r.65(1).
12 Amendment to r.82 S.I. 1993/744	—	Amends S.I. 1993/744 r.82(2).
13 Amendment to r.92 S.I. 1993/744	—	Amends S.I. 1993/744 r.92(2).
14 Revoked r.8 S.I. 1988/640	—	Unnecessary.

The Income Tax (Employments) (Amendment) Regulations 1994 (S.I. 1994/775)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1 Citation and commencement	—	Commencement.
2 Interpretation	—	Unnecessary.
3 Amendment to r.5 S.I. 1993/744 (a) (b) (c)	— — —	Revokes in part S.I. 1993/744 r.5(2). Amends S.I. 1993/744 r.5(3). Inserts S.I. 1993/744 r.5(4), (5).
4 Inserted r.46A S.I. 1993/744	—	Inserts S.I. 1993/744 r.46A.

The Income Tax (Employments) (Notional Payments) Regulations 1994 (S.I. 1994/1212)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1 Citation, commencement and effect	—	Commencement.
2 Interpretation (1)	—	Revoked in part 2003 Sch. 8 Part 2.

The Income Tax (Employments) (Notional Payments) Regulations 1994 (S.I. 1994/1212)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
	“the Principal Regulations”	—	Unnecessary.
	(2)	—	Revoked 2003 Sch. 8 Part 2.
3	Exclusion of property from section 203F	—	Revoked 2003 Sch. 8 Part 2.
4	Exclusion of credit-token from section 203H	—	Revoked 2003 Sch. 8 Part 2.
5	Exclusion of cash vouchers from section 203I	—	Revoked 2003 Sch. 8 Part 2.
6	Notional payments – non-cash vouchers – time of payment	—	Revoked 2003 Sch. 8 Part 2.
7	Notional payments – deduction of income tax	—	Revoked 2003 Sch. 8 Part 2.
8	Notional payments – accounting for income tax where inability to deduct	—	Revoked 2003 Sch. 8 Part 2.
8A	Certain notional payments made between 6 th April 1998 and 31 st July 1998 – accounting for income tax	—	Revoked 2003 Sch. 8 Part 2.
9	Amendment to r.14, r.15 S.I. 1993/744	—	Amends S.I. 1993/744 r.14(2), r.15.
10-12	Amendment to r.46 S.I. 1993/744	—	Spent (superseded amendment of S.I. 1993/744 r.46).
12A	Inserted r.80ZA S.I. 1993/744	—	Inserted S.I. 1998/1891 r.8; inserts S.I. 1993/744 r.80ZA.
13	Application of S.I.1993/744 to income tax accounted for where inability to deduct		
	(1)	2(1) (“notional payment”), 35(2), 37(6), 66(4), 185(5), 188(3)	
	(2)	—	Unnecessary.
	(3)	2(1) (“total net tax deducted”)	
	(4)	—	Unnecessary.
	(5)	68(4), 71(5), 82(1), (6)	
	(6)	68(4), 71(5), 82(1), (6)	
	(7)	72(2), 81(3), (4)	
	(8)	97(2)	

The Income Tax (Employments) (Amendment) Regulations 1995 (S.I. 1995/216)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1 Citation and commencement	—	Commencement.
2 Amendment to r.41 S.I. 1993/744	—	Spent (superseded amendment of S.I. 1993/744 r.41(3)).

The Income Tax (Employments) (Amendment No. 2) Regulations 1995 (S.I. 1995/447)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1 Citation and commencement	—	Commencement.
2 Interpretation	—	Unnecessary.
3 Amendment to r.42 S.I. 1993/744		
(a)	—	Amends S.I. 1993/744 r.42(2).
(b)	—	Amends S.I. 1993/744 r.42(3).
(c)	—	Revokes S.I. 1993/744 r.42(5).
4 Amendment to r.48 S.I. 1993/744		
(a)	—	Revokes in part S.I. 1993/744 r.48(1).
(b)	—	Amends S.I. 1993/744 r.48(6).
(c)	—	Revokes S.I. 1993/744 r.48(8).
5 Amendment to r.49 S.I. 1993/744	—	Amends S.I. 1993/744 r.49(5).
6 Amendment to r.55 S.I. 1993/744	—	Amends S.I. 1993/744 r.55(2).
7 Amendment to r.101 S.I. 1993/744		
(a)	—	Amends S.I. 1993/744 r.101(3).
(b)	—	Revokes in part S.I. 1993/744 r.101(4).
(c)	—	Inserts S.I. 1993/744 r.101(6). Spent in part (superseded amendment of S.I. 1993/744 r.101(7)).

The Income Tax (Employments) (Incapacity Benefit) Regulations 1995 (S.I. 1995/853)

<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1 Citation, commencement and effect	—	Commencement.
2 Interpretation	—	Unnecessary.

The Income Tax (Employments) (Incapacity Benefit) Regulations 1995 (S.I. 1995/853)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
3	Amendments to S.I. 1993/744	—	Introductory.
4	Amendment to r.81 S.I. 1993/744	—	Amends S.I. 1993/744 r.81.
5	Amendment to r.82 S.I. 1993/744	—	Amends S.I. 1993/744 r.82(1).
	(a)	—	Amends S.I. 1993/744 r.82(2).
	(b)	—	
6	Inserted r.98A – r.98H S.I. 1993/744	—	Inserts S.I. 1993/744 r.98A-r.98H.

The Income Tax (Employments) (Amendment No. 3) Regulations 1995 (S.I. 1995/1223)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Amendment to r.54 S.I. 1993/744	—	Amends S.I. 1993/744 r.54(4).

The Income Tax (Employments) (Amendment No. 4) Regulations 1995 (S.I. 1995/1284)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Amendment to r.39 S.I. 1993/744	—	Amends S.I. 1993/744 r.39(1).
4	Inserted r.46 – 46AB S.I. 1993/744	—	Substitutes S.I. 1993/744 r.46; inserts S.I. 1993/744 r.46AA, r.46AB.

The Income Tax (Employments) (Amendment) Regulations 1996 (S.I. 1996/804)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.

The Income Tax (Employments) (Amendment) Regulations 1996 (S.I. 1996/804)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
3	Amendment to r.23 S.I. 1993/744	—	Amends S.I. 1993/744 r.23(2), (3), (4).
4	Amendment to r.25 S.I. 1993/744	—	Revokes in part S.I. 1993/744 r.25(1).
	(a)	—	Amends S.I. 1993/744 r.25(5).
	(b)	—	Revokes S.I. 1993/744 r.25(6).
	(c)	—	
5	Amendment to r.26 S.I. 1993/744	—	Spent (superseded amendment of S.I. 1993/744 r.26(1)).
	(a)	—	Amends S.I. 1993/744 r.26(2).
	(b)	—	Amends S.I. 1993/744 r.26(3).
	(c)	—	
6	Amendment to r.27, r.30 S.I. 1993/744	—	Amends S.I. 1993/744 r.30(4).
			Spent in part (superseded amendment of S.I. 1993/744 r.27(1)).
7	Amendment to r.34 S.I. 1993/744	—	Revokes in part S.I. 1993/744 r.34(1).
	(a)	—	Revokes in part S.I. 1993/744 r.34(2).
	(b)	—	
8	Amendment to r.37 S.I. 1993/744	—	Revokes in part S.I. 1993/744 r.37(2).
9	Amendment to r.84 S.I. 1993/744	—	Amends S.I. 1993/744 r.84(1), (2).
	(a)	—	Revokes S.I. 1993/744 r.84(4).
	(b)	—	Amends S.I. 1993/744 r.84(7).
	(c)	—	Amends S.I. 1993/744 r.84(8).
	(d)	—	
10	Amendment to r.88 S.I. 1993/744	—	Revokes in part S.I. 1993/744 r.88(5).
11	Amendment to r.89 S.I. 1993/744	—	Amends S.I. 1993/744 r.89(2).
12	Amendment to r.91 S.I. 1993/744	—	Amends S.I. 1993/744 r.91(1).
	(a)	—	Revokes in part S.I. 1993/744 r.91(3).
	(b)	—	
13	Amendment to r.92 S.I. 1993/744	—	Amends S.I. 1993/744 r.92(1).
14	Amendment to r.98E S.I. 1993/744	—	Amends S.I. 1993/744 r.98E(1).

The Income Tax (Employments) (Amendment No. 2) Regulations 1996 (S.I. 1996/980)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation, commencement and effect	—	Commencement.
2	Amendments to S.I. 1993/744	—	Introductory.
3	Amendment to r.42 S.I. 1993/744	—	Inserts S.I. 1993/744 r.42(7A).
4	Amendment to r.48, r.53 S.I. 1993/744		
	(1)		
	(a)	—	Inserts S.I. 1993/744 r.48(7A).
	(b)	—	Inserts S.I. 1993/744 r.53(5).
	(2)	—	Inserts S.I. 1993/744 r.48(7A), r.53(5).
5	Amendment to r.52 S.I. 1993/744	—	Inserts S.I. 1993/744 r.52(4).

The Income Tax (Employments) (Amendment No. 3) Regulations 1996 (S.I. 1996/1312)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Amendment to r.5 S.I. 1993/744		
	(a)	—	Amends S.I. 1993/744 r.5(3).
	(b)	—	Inserts S.I. 1993/744 r.5(4A).
4	Amendment to r.7 S.I. 1993/744	—	Revokes in part S.I. 1993/744 r.7(2).
5	Amendment to r.9 S.I. 1993/744	—	Amends S.I. 1993/744 r.9(2).
6	Amendment to r.11 S.I. 1993/744	—	Amends S.I. 1993/744 r.11(3)
7	Amendment to r.46AA S.I. 1993/744	—	Amends S.I. 1993/744 r.46AA(3).
8	Amendment to r.49 S.I. 1993/744		
	(1)	—	Substitutes S.I. 1993/744 r.49(8).
	(2)	—	Commencement.
9	Amendment to r.53 S.I. 1993/744	—	Amends S.I. 1993/744 r.53(1).

The Income Tax (Employments) (Amendment No. 3) Regulations 1996 (S.I. 1996/1312)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
10	Inserted r.53A S.I. 1993/744	—	Inserts S.I. 1993/744 r.53A.
11	Amendment to r.63 S.I. 1993/744	—	Amends S.I. 1993/744 r.63(5).
12	Amendment to r.68, r.88 S.I. 1993/744	—	Amends S.I. 1993/744 r.68(1), r.88(1).
13	Substituted r.99 S.I. 1993/744	—	Substitutes S.I. 1993/744 r.99.
14	Amendment to r.101 S.I. 1993/744 (a) (b)	— —	Revokes in part S.I. 1993/744 r.101(4). Substitutes S.I. 1993/744 r.101(7).
15	Inserted r.101A S.I. 1993/744	—	Inserts S.I. 1993/744 r.101A.
16	Amendment to r.102 S.I. 1993/744 (1) (2)	— —	Revokes in part S.I. 1993/744 r.102(2). Commencement.
17	Amendment to r.104 S.I. 1993/744 (1) (a) (b) (c) (2)	— — — —	Amends S.I. 1993/744 r.104(7). Revokes S.I. 1993/744 r.104(8). Amends S.I. 1993/744 r.104(11). Commencement.
18	Amendment to r.105 S.I. 1993/744 (1) (2)	— —	Revokes S.I. 1993/744 r.105(2). Commencement.
19	Revocations and savings (1) (2)	— —	Revokes in part S.I. 1993/744 r.100. Revokes in part S.I. 1993/744 r.103.

The Income Tax (Employments) (Amendment No. 4) Regulations 1996 (S.I. 1996/2381)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Amendment to r.81 S.I. 1993/744	—	Amends S.I. 1993/744 r.81.

The Income Tax (Employments) (Amendment No. 4) Regulations 1996 (S.I. 1996/2381)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
4	Amendment to r.83 S.I. 1993/744		
	(a)	—	Amends S.I. 1993/744 r.83(1).
	(b)	—	Revokes S.I. 1993/744 r.83(2).

The Income Tax (Employments) (Amendment No. 5) Regulations 1996 (S.I. 1996/2554)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Amendments to S.I. 1993/744	—	Introductory.
3	Amendment to r.29 S.I. 1993/744	—	Substitutes S.I. 1993/744 r.29(1).
4	Amendment to r.30 S.I. 1993/744	—	Substitutes S.I. 1993/744 r.30(1).

The Income Tax (Employments) (Amendment No. 6) Regulations 1996 (S.I. 1996/2631)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation, commencement and effect	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Transitional provision	—	Unnecessary.
4	Inserted r.80A – r.80N S.I. 1993/744	—	Inserts S.I. 1993/744 r.80A - r.80N.

The Income Tax (Employments) (Amendment) Regulations 1997 (S.I. 1997/214)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Amendment to r.59 S.I. 1993/744	—	Amends S.I. 1993/744 r. 59(1).
4	Amendment to r.59 S.I. 1993/744	—	Substitutes S.I. 1993/744 r.59(2); inserts S.I. 1993/744 r.59(3).

The Income Tax (Employments) (Notional Payments) (Amendment) Regulations 1998 (S.I. 1998/1891)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Amendment to r.2 S.I. 1994/1212	—	Spent (superseded amendment of S.I. 1994/1212 r.2).
4	Amendment to r.3 S.I. 1994/1212	—	Revoked 2003 Sch. 8 Part 2.
5	Inserted r.3A, r.3B S.I. 1994/1212	—	Revoked 2003 Sch. 8 Part 2.
6	Amendment to r.7, r.8 S.I. 1994/1212	—	Revoked 2003 Sch. 8 Part 2.
7	Inserted r.8A S.I. 1994/1212	—	Spent.
8	Inserted r.12A S.I. 1994/1212	—	Inserts S.I. 1994/1212 r.12A.

The Income Tax (Employments) (Amendment) Regulations 1998 (S.I. 1998/2484)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Amendment to r.2 S.I. 1993/744 (1) (2)	— —	Introductory. Spent (superseded amendment of S.I. 1993/744 r.2(4), (5), (6)).
4	Amendment to r.6 S.I. 1993/744 (1) (2)	— —	Introductory. Inserts S.I. 1993/744 r.6(4).
5	Amendment to r.23 S.I. 1993/744 (1) (2) (3)	— — —	Introductory. Amends S.I. 1993/744 r.23(1). Amends S.I. 1993/744 r.23(3), (4).

The Income Tax (Employments) (Amendment) Regulations 1998 (S.I. 1998/2484)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
6	Amendment to r.24 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.24(1).
7	Amendment to r.25 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.25(1)-(4), (7)-(11).
	(3)	—	Amends S.I. 1993/744 r.25(2).
8	Amendment to r.26 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.26(1).
	(3)	—	Amends S.I. 1993/744 r.26(3).
9	Amendment to r.27 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.27(1).
	(3)	—	Amends S.I. 1993/744 r.27(2).
10	Amendment to r.28 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.28(1).
	(3)	—	Amends S.I. 1993/744 r.28(3).
	(4)	—	Amends S.I. 1993/744 r.28(4).
	(5)	—	Amends S.I. 1993/744 r.28(5).
	(6)	—	Spent (superseded amendment of S.I. 1993/744 r.28(6)).
11	Amendment to r.30 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.30(4).
12	Amendment to r.34 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.34.
13	Amendment to r.37 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.37(2).
14	Amendment to r.43 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.43(1).
	(3)	—	Inserts S.I. 1993/744 r.43(1A), (1B). Spent in part (superseded amendment of S.I. 1993/744 r.43(1C)).
	(4)	—	Amends S.I. 1993/744 r.43(2).
	(5)	—	Amends S.I. 1993/744 r.43(6).

The Income Tax (Employments) (Amendment) Regulations 1998 (S.I. 1998/2484)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
15	Amendment to r.46 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.46(1).
	(3)	—	Spent (superseded amendment of S.I. 1993/744 r.46(1A)).
	(4)	—	Amends S.I. 1993/744 r.46(7).
	(5)	—	Inserts S.I. 1993/744 r.46(7A).
16	Amendment to r.46AA S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.46AA(1), (3).
	(3)	—	Amends S.I. 1993/744 r.46AA(6).
17	Amendment to r.46AB S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Revokes in part S.I. 1993/744 r.46AB(1), (4).
18	Amendment to r.46A S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Spent (superseded amendment of S.I. 1993/744 r.46A(1)).
	(3)	—	Spent (superseded amendment of S.I. 1993/744 r.46A(1A)).
19	Amendment to r.55 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.55(2).
20	Amendment to r.80A S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.80A(5).
21	Amendment to r.84 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.84(1).
	(3)	—	Amends S.I. 1993/744 r.84(3), (5)-(7).
	(4)	—	Amends S.I. 1993/744 r.84(8).
	(5)	—	Amends S.I. 1993/744 r.84(9).
22	Amendment to r.91 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.91(5)
23	Amendment to r.98E S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.98E(1), (2).

The Income Tax (Employments) (Amendment) Regulations 1999 (S.I. 1999/70)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Inserted r.46ZA S.I. 1993/744	—	Inserts S.I. 1993/744 r.46ZA.

The Income Tax (Employments) (Amendment No. 2) Regulations 1999 (S.I. 1999/824)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Amendment to r.41 S.I. 1993/744	—	Spent (superseded amendment of S.I. 1993/744 r.41(3)).

The Income Tax (Employments) (Amendment No. 3) Regulations 1999 (S.I. 1999/2155)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation, commencement and effect	—	Commencement.
2	Interpretation	—	Unnecessary.
3	Amendment to r.7 S.I. 1993/744	—	Amends S.I. 1993/744 r.7(2).
4	Amendment to r.10, r.12 S.I. 1993/744	—	Amends S.I. 1993/744 r.10(2), r.12(3)
5	Amendment to r.13 S. I. 1993/744	—	Amends S.I. 1993/744 r.13(4).
6	Amendment to r.28 S.I. 1993/744	—	Amends S.I. 1993/744 r.28(2).
7	Amendment to r.49 S.I. 1993/744	—	Amends S.I. 1993/744 r.49(7).
8	Amendment to r.2 S.I. 1993/744	—	Inserts S.I. 1993/744 r.2(1) (“starting rate”).

The Income Tax (Employments) (Amendment No. 3) Regulations 1999 (S.I. 1999/2155)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
9	Amendment to r.29 S.I. 1993/744	—	Amends S.I. 1993/744 r.29(2), (3).
10	Amendment to r.30 S.I. 1993/744	—	Amends S.I. 1993/744 r.30(2), (3).
11	Amendment to r.32 S.I. 1993/744	—	Amends S.I. 1993/744 r.32.
12	Amendment to r.80F S.I. 1993/744	—	Amends S.I. 1993/744 r.80F(2).
13	Amendment to r.84 S.I. 1993/744	—	Amends S.I. 1993/744 r.84(7).
14	Amendment to r.98C S.I. 1993/744	—	Amends S.I. 1993/744 r.98C(3).
15	Amendment to r.10 S.I. 1993/744	—	Amends S.I. 1993/744 r.10(2)
16	Amendment to r.12 S.I. 1993/744	—	Amends S.I. 1993/744 r.12(3)
17	Amendment to r.13 S.I. 1993/744	—	Amends S.I. 1993/744 r.13(4)
18	Amendment to r.98C S.I. 1993/744	—	Revokes in part S.I. 1993/744 r.98C(4).
19	Amendment to r.98F S.I. 1993/744	—	Amends S.I. 1993/744 r.98F(3).
	(a)	—	Amends S.I. 1993/744 r.98F(3).
	(b)	—	Revokes in part S.I. 1993/744 r.98F(3).
20	Amendment to r.10 S.I. 1993/744	—	Amends S.I. 1993/744 r.10(2).
21	Amendment to r.12 S.I. 1993/744	—	Amends S.I. 1993/744 r.12(3).
22	Amendment to r.13 S.I. 1993/744	—	Amends S.I. 1993/744 r.13(4).
23	Amendment to r.98C S.I. 1993/744	—	Amends S.I. 1993/744 r.98C(4).
24	Amendment to r.98F S.I. 1993/744	—	Amends S.I. 1993/744 r.98F(3).

The Income Tax (Employments) (Amendment) Regulations 2000 (S.I. 2000/1152)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Amendment of r.41 S.I. 1993/744	—	Spent (superseded amendment of S.I. 1993/744 r.41(3)).

The Income Tax (Sub-contractors in the Construction Industry and Employments) (Amendment) Regulations 2000 (S.I. 2000/2742)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
3	Amendment of r.41 S.I. 1993/744	—	Spent (superseded amendment of S.I. 1993/744 r.41(3)).

The Income Tax (Electronic Communications) (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/1081)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation, commencement and interpretation (2) (words)	—	Unnecessary.
7	Amendments to S.I. 1993/744	—	Introductory.
8	Amendment of r.2 S.I. 1993/744 (1) (2) (3) (4) – (6)	— — — —	Introductory. Inserts S.I. 1993/744 r.2(1) (“electronic communications”, “official computer system”). Substitutes S.I. 1993/744 r.2(4). Spent (superseded amendment of S.I. 1993/744 r.2(4A) – (6)).
9	Amendment of r.6 S.I. 1993/744	—	Amends S.I. 1993/744 r.6(4).
10	Amendment of r.23 S.I. 1993/744	—	Amends S.I. 1993/744 r.23(1).
11	Amendment of r.25 S.I. 1993/744	—	Amends S.I. 1993/744 r.25(2).
12	Amendment of r.26 S.I. 1993/744 (1) (2) (3) (4)	— — — —	Introductory. Amends S.I. 1993/744 r.26(1). Inserts S.I. 1993/744 r.26(1A). Amends S.I. 1993/744 r.26(3).

The Income Tax (Electronic Communications) (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/1081)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
	(5)	—	Inserts S.I. 1993/744 r.26(4).
13	Amendment of r.27 S.I. 1993/744	—	Amends S.I. 1993/744 r.27(1).
14	Amendment of r.28 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.28(1).
	(3)	—	Inserts S.I. 1993/744 r.28(1A), (1B).
	(4)	—	Amends S.I. 1993/744 r.28(5).
	(5)	—	Inserts S.I. 1993/744 r.28(5A), (5B).
	(6)	—	Revokes S.I. 1993/744 r.28(6).
15	Amendment of r.43 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.43(1).
	(3)	—	Substitutes S.I. 1993/744 r.43(1C).
	(4)	—	Substitutes S.I. 1993/744 r.43(3); inserts S.I. 1993/744 r.43(3A), (3B).
16	Amendment of r.44 S.I. 1993/744	—	Substitutes S.I. 1993/744 r.44.
17	Amendment of r.46 S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.46(1).
	(3)	—	Substitutes S.I. 1993/744 r.46(1A).
	(4)	—	Inserts S.I. 1993/744 r.46(7B).
18	Amendment of r.46AA S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.46AA(1).
	(3)	—	Amends S.I. 1993/744 r.46AA(3).
19	Amendment of r.46A S.I. 1993/744		
	(1)	—	Introductory.
	(2)	—	Amends S.I. 1993/744 r.46A(1).
	(3)	—	Revokes S.I. 1993/744 r.46A(1A).
20	Inserted r.46ZB S.I. 1993/744	—	Inserts S.I. 1993/744 r.46ZB.
21	Amendment of r.55 S.I. 1993/744	—	Amends S.I. 1993/744 r.55(2).

The Income Tax (Employments and Electronic Communications) (Miscellaneous Provisions) Regulations 2002 (S.I. 2002/680)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
3	Amendments to S.I. 1993/744	—	Introductory.
4	Amendment of r.2 S.I. 1993/744 (a)	—	Amends S.I. 1993/744 r.2(1) (“electronic communications”).
	(b)	—	Revokes S.I. 1993/744 r.2(4A) - (6).
5	Inserted r.2A – 2E	—	Inserts S.I. 1993/744 r.2A - 2E.
6	Amendment of r.6 S.I. 1993/744	—	Amends S.I. 1993/744 r.6(4).
7	Amendment of r.13 S.I. 1993/744 (a)	—	Amends S.I. 1993/744 r.13(1).
	(b)	—	Inserts S.I. 1993/744 r.13(6).
8	Amendment of r.20 S.I. 1993/744	—	Amends S.I. 1993/744 r.20(3).

The Income Tax (Sub-contractors in the Construction Industry and Employments) (Amendment) Regulations 2003 (S.I. 2003/536)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation, commencement and interpretation (2) (words)	—	Unnecessary.
9	Amendment of r.41 S.I. 1993/744	—	Substitutes S.I. 1993/744 r.41(3).

The Income Tax (Employments) (Amendment) Regulations 2003 (S.I. 2003/2494)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
1	Citation and commencement	—	Commencement.
2	Introductory	—	Unnecessary.
3	Amendment of r.2D S.I. 1993/744	—	Amends S.I. 1993/744 r.2D(1) – (3); inserts S.I. 1993/744 r.2D(4)
4	Amendment of r.3 S.I. 1993/744	—	Amends S.I. 1993/744 r.3(1); inserts S.I. 1993/744 r.3(6) – (9)

The Income Tax (Employments) (Amendment) Regulations 2003 (S.I. 2003/2494)

	<i>Existing provision</i>	<i>Rewritten provision</i>	<i>Remarks</i>
5	Amendment of r.40 S.I. 1993/744	—	Amends S.I. 1993/744 r.40(1).
6	Amendment of r.41 S.I. 1993/744	—	Amends S.I. 1993/744 r.41(1).
7	Inserted r.42A and 42B	—	Inserts S.I. 1993/744 r.42A and 42B
8	Inserted r.46ZC – r.46ZH	—	Inserts S.I. 1993/744 r.42ZC – 46ZH
9	Amendment of r.47 S.I. 1993/744	—	Amends S.I. 1993/744 r.47(1)
10	Amendment of r.48 S.I. 1993/744	—	Amends S.I. 1993/744 r.48(1)
11	Amendment of r.51 S.I. 1993/744	—	Amends S.I. 1993/744 r.51(1) and (3)

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