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STATUTORY INSTRUMENTS

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**2003 No. 2682**

**The Income Tax (Pay As You Earn) Regulations 2003**

**PART 8**

**SOCIAL SECURITY BENEFITS**

**CHAPTER 1**

**JOBSEEKER'S ALLOWANCE: NORMAL CASES**

**Interpretation of Chapters 1 and 2**

**148.** In Chapters 1 and 2—

“award” means an award of a jobseeker’s allowance;

“claim” means a claim for a jobseeker’s allowance;

“claimant” means a person who has made a claim, or who is treated for the purposes of the JSA Regulations as having made a claim;

“Chapter 2 claimant” means—

(a) a claimant who is entitled to a jobseeker’s allowance by virtue of regulation 17 of the JSA Regulations (laid off and short time workers); or

(b) a claimant who is a share fisherman, as defined by regulation 156 of the JSA Regulations;

“Department” means the Department for Work and Pensions or, in Northern Ireland, the Department for Social Development;

“JSA Regulations” means the Jobseeker’s Allowance Regulations 1996(1) or, in Northern Ireland, the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(2);

“jobseeker’s allowance” means benefit payable under—

(a) the Jobseekers Act 1995(3), or

(b) in Northern Ireland, the Jobseekers (Northern Ireland) Order 1995(4);

“taxable jobseeker’s allowance” means any amount of jobseeker’s allowance which is chargeable to income tax under Chapter 2 of Part 10 of ITEPA (tax on social security income).

**Scope of Chapter 1**

**149.** This Chapter applies to claimants who are not Chapter 2 claimants.

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(1) S.I.1996/207.

(2) S.R. (N.I.) 1996 No. 198.

(3) 1995 c. 18.

(4) S.I. 1995/2705 (N.I. 15).

**Application of other regulations**

**150.**—(1) The following regulations apply to payments of taxable jobseeker’s allowance made to a claimant with the modifications mentioned in paragraphs (2) and (3)—

regulation 2	interpretation
regulation 14	matters relevant to determination of code
regulation 15	flat rate codes
regulation 16	continued application of employee’s code
regulation 17	notice to employee of code
regulation 18	objections and appeals against employee’s code
regulation 19	amendment of code
regulation 20	notice to employer of amended code
regulation 21	deduction and repayment of tax by reference to employee’s code
regulation 97	inspection of employer’s PAYE records
regulation 98	multiple PAYE schemes
regulation 102	succession to a business etc
regulation 185	adjusting total net tax deducted for purposes of sections 59A(1) and 59B(1) TMA
regulation 188	assessments other than self-assessments
regulation 211	how information must or may be delivered by employers
regulation 214	how information must be provided by employees
regulation 216	service by post.

(2) In the application of those regulations, the expressions listed in column 1 of Table 5 have the meanings shown in column 2 of the table.

**Table 5**

Meaning of expressions in application of other regulations

<i>1. Expression</i>	<i>2. Meaning for purposes of this Chapter</i>
employee	claimant
employer	Department
employment	award
relevant payments	taxable jobseeker’s allowance.

(3) In the application of regulations 20 and 21, any reference to the deduction or repayment of tax must be read as a reference to the tax calculation which the Department is required to make at

the end of the tax year or on the cessation of an award (by virtue of regulations 157(2)(a) and 158(2) respectively).

### **Obtaining the claimant's Form P45**

**151.**—(1) A claimant who has Parts 2 and 3 of Form P45 must deliver them to the Department on making a claim for a jobseeker's allowance which includes taxable jobseeker's allowance.

(2) If, on making a claim, the claimant declares that the claimant's last employer did not provide Parts 2 and 3 of Form P45, the Department may require the employer to deliver them to a specified office of the Department.

### **Deductions working sheet for claimants awarded taxable jobseeker's allowance**

**152.**—(1) The Department must prepare a deductions working sheet in respect of each claimant whose award includes taxable jobseeker's allowance.

(2) If the Department obtains Parts 2 and 3 of Form P45 relating to the claimant, it must immediately prepare the deductions working sheet using the information shown in Parts 2 and 3 of Form P45 in accordance with regulation 153.

(3) If the Department does not obtain Parts 2 and 3 of Form P45 relating to the claimant, it must prepare the deductions working sheet in accordance with regulation 154.

### **Form P45: deductions working sheet and return**

**153.**—(1) If Parts 2 and 3 of Form P45 relate to the current tax year, the Department must record in the deductions working sheet the total payments to date shown in Parts 2 and 3 of Form P45.

(2) If Parts 2 and 3 of Form P45 relate to the current tax year and show that the cumulative basis has been used, the Department must also—

- (a) record the following information from Parts 2 and 3 of Form P45 in the deductions working sheet, or
- (b) keep such records as enable production of the information.

(3) If the code shown in Parts 2 and 3 of Form P45 is a K code, the information is—

- (a) the total additional pay to date,
- (b) the total taxable payments to date, and
- (c) the lower of the total tax to date as at the week or month shown in Parts 2 and 3 of Form P45 or the total net tax deducted shown in them.

(4) In any other case the information is—

- (a) the total free pay to date,
- (b) the total taxable payments to date, and
- (c) the corresponding total tax to date as at the week or month shown in Parts 2 and 3 of Form P45.

(5) Paragraph (6) applies if—

- (a) the claim is made by 24th May in a tax year, and
- (b) Parts 2 and 3 of Form P45 show that the last relevant payment was made in the preceding tax year.

(6) The Department must complete the deductions working sheet but without recording the total payments to date or total net tax deducted (if any) shown in Parts 2 and 3 of Form P45.

(7) In cases falling within paragraphs (1) and (5), the code shown in Parts 2 and 3 of Form P45 must be treated as the claimant's code for the purposes of these Regulations.

(8) If, in a case not falling within paragraph (5), Parts 2 and 3 of Form P45 show that the last relevant payment was made in a tax year preceding that in which the claim was made, the Department—

- (a) must complete the deductions working sheet but without recording the total payments to date or total net tax deducted (if any) shown in Parts 2 and 3 of Form P45, and
- (b) must record the emergency code as the claimant's code.

(9) The Department must supply the information recorded under this regulation to the Inland Revenue together with such further information as may be required for the purposes of these Regulations.

#### **No Form P45: deductions working sheet and return**

**154.**—(1) In a case falling within regulation 152(3) (no Form P45), the Department must—

- (a) prepare the deductions working sheet within 14 days of the award of a taxable jobseeker's allowance, and
- (b) record the emergency code as the claimant's code.

(2) The Department must also deliver a return to the Inland Revenue, giving—

- (a) the claimant's name,
- (b) the claimant's national insurance number,
- (c) the claimant's date of birth, if known,
- (d) the date on which the claim was made, and
- (e) the reference number of the benefit office submitting the return.

(3) But the return need not be delivered if the claimant certifies that the claimant—

- (a) is undergoing a course of full-time education and has not had regular employment since the previous 6th April, or
- (b) has not had regular employment since finishing full-time education.

#### **Claimant's code etc to be used for calculations**

**155.**—(1) This regulation applies if, in respect of a claimant, the Department receives notification from the Inland Revenue of—

- (a) a code or amended code,
- (b) total payments to date, or
- (c) total net tax deducted.

(2) The Department must record that notification in substitution for any previous record and use it for the purpose of all calculations required under this Chapter.

#### **Recording the amount of taxable jobseeker's allowance**

**156.** Whenever a payment of jobseeker's allowance is made, the Department must record the taxable jobseeker's allowance included in the payment.

### **Obligations at end of tax year**

**157.**—(1) This regulation applies in respect of each award which includes taxable jobseeker's allowance and which continues beyond the end of a tax year.

- (2) Before 1st June following the end of the tax year, the Department must—
  - (a) make a tax calculation in accordance with regulation 161 if the claimant's code is used on the cumulative basis;
  - (b) subject to paragraph (3), issue a certificate to the claimant; and
  - (c) deliver a return to the Inland Revenue.
- (3) The Department need not issue the certificate if—
  - (a) no taxable jobseeker's allowance has been paid, and
  - (b) a tax calculation in accordance with regulation 161 is not required.
- (4) The certificate must show—
  - (a) the tax year to which it relates,
  - (b) the total jobseeker's allowance for the tax year excluding any amounts previously notified under regulation 159(2) or 160(2),
  - (c) the taxable jobseeker's allowance included in the total jobseeker's allowance,
  - (d) the claimant's code,
  - (e) the claimant's national insurance number,
  - (f) the claimant's name,
  - (g) the claimant's address, if known,
  - (h) any previous relevant payments and any tax deducted from those relevant payments which the Department was required to take into account under regulation 161,
  - (i) any total payments to date recorded by the Department in accordance with regulation 153(1) plus the total taxable jobseeker's allowance for the tax year, and the corresponding total net tax deducted, and
  - (j) the amount of tax refunded by the Department.
- (5) The return must show—
  - (a) the particulars specified in paragraph (4), and
  - (b) if a calculation is required under regulation 161, any amount of tax outstanding.

### **When an award ceases**

**158.**—(1) For the purposes of these Regulations an award ceases when entitlement to a jobseeker's allowance ceases.

- (2) When an award of a taxable jobseeker's allowance ceases the Department must make a tax calculation in accordance with regulation 161 if the claimant's code is used on the cumulative basis.
- (3) The relevant date for the purposes of that calculation is the date on which the award ceases.
- (4) The date on which the award ceases is the last day for which benefit was paid and was not recoverable, except that if the last day is 4th or 5th April the date is the preceding 3rd April.
- (5) But the Department need not amend a tax calculation solely because the date used for the purposes of the calculation is subsequently shown to be incorrect.

**Cessation of award: Form P45U**

**159.**—(1) When an award of a taxable jobseeker's allowance ceases the Department must immediately complete Form P45U.

(2) The Department must then—

(a) send Part 1 of Form P45U to the Inland Revenue, and

(b) provide Part 1A of Form P45U and Parts 2 and 3 of Form P45 to the claimant.

(3) The information listed in column 1 of Table 6 must, subject to the conditions set out in column 2, be provided in Parts 1 and 1A of Form P45U and Parts 2 and 3 of Form P45 as indicated in columns 3 to 5.

**Table 6**

Information which must be provided in Form P45U

<i>1. Information to be provided</i>	<i>2. Conditions</i>	<i>3. Form P45U  Part 1</i>	<i>4.  Part 1A</i>	<i>5. Form P45  Parts 2 &amp; 3</i>
<b>1.</b> the tax reference as shown in the deductions working sheet		yes	yes	yes
<b>2.</b> the claimant's national insurance number		yes	yes	yes
<b>3.</b> the claimant's name		yes	yes	yes
<b>4.</b> the date on which the award ceased		yes	yes	yes
<b>5.</b> the claimant's code or, if more than one, the latest code for the tax year during which the award ceased		yes	yes	yes
<b>6.</b> whether the claimant's code is used on the cumulative basis		yes	yes	yes
<b>7.</b> the tax week or month in which the award ceased	if the claimant's code is used on the cumulative basis	yes	yes	yes

1. Information to be provided	2. Conditions	3. Form P45U  Part 1	4.  Part 1A	5. Form P45  Parts 2 & 3
8. the total payments to date (including taxable jobseeker's allowance) at the date the award ceased, and the corresponding total net tax deducted	if the claimant's code is used on the cumulative basis	yes	yes	yes
9. the taxable jobseeker's allowance paid during the tax year by virtue of the award in question	if the claimant's code is used on the cumulative basis, and if different from the information supplied under item 8	yes	yes	no
10. the taxable jobseeker's allowance paid during the tax year by virtue of the award in question	if the claimant's code is not used on the cumulative basis	yes	yes	no
11. any amount of tax outstanding	if the claimant's code is used on the cumulative basis	yes	no	no
12. whether the claimant was self-employed immediately before the claim was made		yes	no	no
13. whether the claimant is receiving a pension by reason of a former employment		yes	no	no
14. the claimant's address	if known	yes	no	no
15. the address of the benefit officer		yes	yes	no

<i>1. Information to be provided</i>	<i>2. Conditions</i>	<i>3. Form P45U Part 1</i>	<i>4. Part 1A</i>	<i>5. Form P45 Parts 2 &amp; 3</i>
<b>16.</b> the date the form is completed		yes	yes	no

- (4) The Department must also give notice to the claimant of—
  - (a) the total jobseeker’s allowance for the tax year excluding any sums previously notified under this regulation or regulation 160, 171 or 172, and
  - (b) the taxable jobseeker’s allowance included in that total.
- (5) Expressions used in Parts 2 and 3 of Form P45 have the following meanings—
  - (a) “employee” means “claimant”,
  - (b) “leaving date” means “date the award ceased”, and
  - (c) “pay” means “jobseeker’s allowance”.
- (6) Regulation 163 (death of claimant) modifies the requirements of this regulation if an award of taxable jobseeker’s allowance has ceased on the death of the claimant.

**Notification of taxable jobseeker’s allowance adjustment**

- 160.**—(1) Paragraph (2) applies if—
- (a) after a certificate under regulation 157(2)(b) has been issued (or would have been issued but for regulation 157(3)), or
  - (b) after a notice has been issued under regulation 159(4) or this regulation,

further taxable jobseeker’s allowance is paid to, or taxable jobseeker’s allowance overpaid is recovered from, the claimant.

- (2) The Department must—
  - (a) give notice to the claimant of the revised figure of total jobseeker’s allowance and the taxable jobseeker’s allowance included in that revised figure in accordance with the relevant regulation, and
  - (b) notify the Inland Revenue of the sums paid or refunded.

**Tax calculation**

**161.**—(1) This regulation applies, subject to regulation 162, if the Department is required by regulation 157 or 158 to make a tax calculation.

- (2) The Department must calculate in respect of the claimant as at the relevant date—
  - (a) the total payments to date, and
  - (b) the claimant’s total tax.
- (3) If the recorded tax exceeds the claimant’s total tax, the Department must repay the excess to the claimant.
- (4) But if the recorded tax is less than the claimant’s total tax—
  - (a) the difference is tax outstanding for the purposes of regulation 157(5)(b) or item 11 of Table 6 in regulation 159(3), and
  - (b) the Department must treat the claimant’s code as issued by the Inland Revenue on the non-cumulative basis from the relevant date.

(5) In this regulation—

“claimant’s total tax” means—

- (a) if the claimant’s code is a K code, the lesser of—
  - (i) 50% of the claimant’s total payments to date, and
  - (ii) the tax due in accordance with the appropriate tax tables in respect of the claimant’s total taxable payments to date at the relevant date;
- (b) in any other case, the tax due in accordance with the appropriate tax tables in respect of the claimant’s total taxable payments to date at the relevant date;

“recorded tax” means the total tax to date or (as the case may be) the total net tax deducted which was recorded in accordance with regulation 153(3) or (4) when the claim was made;

“relevant date” means—

- (a) the end of the tax year, if the calculation is required by regulation 157;
- (b) the date used for the purposes of the calculation, if the calculation is required by regulation 158;

“total payments to date” means any payments to date recorded by the Department in accordance with regulation 153(1), plus the total taxable jobseeker’s allowance.

#### **No tax calculation required in certain cases**

**162.**—(1) A tax calculation under regulation 161 is not required in any of the following cases—

- (a) if the claimant does not give the Department Parts 2 and 3 of Form P45, and does not certify in accordance with regulation 154(3) (students etc);
- (b) if the claimant gives the Department Parts 2 and 3 of Form P45, but they do not relate to the claimant’s last employment or award before the present award, whichever is later;
- (c) if the claimant is in receipt of a pension in respect of a former employment;
- (d) if it appears to the Department on the occasion of a claim that a previous award should have been treated as having ceased in accordance with regulation 158 (when an award ceases); or
- (e) if the claimant’s code is a nil tax code, basic rate code or higher rate code.

(2) Those cases are treated as if the Inland Revenue had made a direction that the claimant’s code must be used on the non-cumulative basis.

(3) Those cases are subject to a notification from the Inland Revenue under regulation 155 that revised particulars are to be substituted and used.

#### **Death of claimant**

**163.**—(1) On being informed of the death of a claimant whose award included taxable jobseeker’s allowance, the Department must send the Inland Revenue the completed Form P45U indicating in Part 1 that the claimant has died.

(2) If the Department knows the name and address of the claimant’s personal representative, the Department must send the notice referred to in regulation 159(4) to the personal representative.

(3) But if the Department has not been notified of the name and address of the claimant’s personal representative within 30 days of the claimant’s death, the Department is not required—

- (a) to make a tax calculation under regulation 161, nor
- (b) to issue the notice under regulation 159(4).

**Finance**

**164.**—(1) The Board of Inland Revenue must advance monies to the National Insurance Funds of Great Britain and Northern Ireland at intervals to be agreed with the Department for use in making repayments of income tax under these Regulations.

(2) The Department must provide the Board with a quarterly statement of receipts and payments.