
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of instruments made under the Tax Credits Act 2002 (“the Act”), namely the Child Tax Credit Regulations 2002, the Tax Credits (Claims and Notifications) Regulations 2002 (“the Claims Regulations”), the Tax Credits (Definition and Calculation of Income) Regulations 2002 (“the Income Regulations”) and the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (“the Working Tax Credit Entitlement Regulations”), the Tax Credits (Payments by the Board) Regulations 2002 (“the Payments by the Board Regulations”) and the Tax Credits (Polygamous Marriages) Regulations 2003 (“the Polygamous Marriages Regulations”).

Regulation 1 provides for the citation and commencement of the Regulations and defines some terms used in them.

Regulation 2 amends the Child Tax Credit Regulations. It adds an additional Case (Case E) in regulation 3(1). The effect is that a person is not to be treated as responsible for a child or a qualifying young person in respect of whom incapacity benefit is payable. There is transitional protection during a period of incapacity which began before 6th April 2004 for cases where both incapacity benefit and child tax credit were in payment in respect of the child or qualifying young person before that date.

Regulation 3 amends the Claims Regulations. It amends regulation 11, extending the period within which a claim for tax credit is deemed to be made where there is a declaration under section 17 in respect of a previous year. It also prevents the deemed claim provision from applying where it would not be possible for a single claimant to make a single claim, or, in the case of joint claimants to make a joint claim at the time of the declaration. It also inserts a new regulation 26A and makes a consequential amendment to regulation 24. The effect is that a claim for the disability or severe disability element of child tax credit based on a claim made for disability living allowance may be backdated, if the award of that allowance is notified to the Board within three months of its having been made, to the first date in respect which the allowance is payable. Paragraph (5) substitutes new regulations 33 and 34. The new regulation 33 extends the time within which a section 17(8) declaration may be made. The new regulation 34 aligns the process for declarations and statements under section 17 of the Act more closely with that for notifications under regulation 22 of the Claims Regulations.

Regulations 4 to 10 amend the Working Tax Credit Entitlement Regulations.

Regulation 4 introduces the amendments.

Regulation 5 amends regulation 4 of those Regulations by limiting the application of paragraph (2). The effect is that, if the amount of a training allowance or a payment by the Secretary of State or the Department for Social Development in respect of work during the Intensive Activity Period is taxable as the profits of a trade, business or profession, the work undertaken counts for the purposes of determining the extent of qualifying remunerative work.

Regulation 6 amends the heading of regulation 5 of those Regulations.

Regulation 7 inserts a new regulation 5A in those Regulations. This reduces the number of hours, for which a person must have been engaged in qualifying remunerative work immediately before beginning a period of statutory leave in connection with the birth or placement for adoption of a child, in order to qualify for tax credit for so much of that period as follows the birth or placement for adoption of the relevant child.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 8 makes an amendment to regulation 9B of those Regulations, limiting the ambit of the definition of the expression “training for work”.

Regulation 9 amends regulation 13 to enable a claim for the child care element to be made in respect of a child during a period of statutory leave in connection with the child’s birth or placement for adoption, regardless of whether there are other children in the household.

Regulation 10 amends regulation 14 to clarify the meaning of “responsible” in paragraph (1).

Regulation 11 amends regulation 18. It provides a definition of “consecutive periods” in paragraph (4), and in paragraph (5) replaces the reference to minimum income guarantee with one to state pension credit, and adds a further category of payment in paragraph (5) which gives rise to entitlement to the 50-plus element.

Regulations 12 to 16 amend the Income Regulations.

Regulation 12 introduces the amendments.

Regulation 13 amends the interpretation provision in those Regulations to add a definition of “the Northern Ireland Contributions and Benefits Act”.

Regulation 14 amends regulation 4 of those Regulations so as to make special provision in respect of the treatment of the pay of Members of the Brigade of Gurkhas. The amendment reflects the special arrangements under which Gurkhas are paid. It also extends the range of sums to be disregarded in the calculation of employment income.

Regulation 15 amends regulation 16 of those Regulations. It further qualifies the rule about income which a claimant is treated as having, so as to exclude Category A and B retirement pensions, graduated retirement benefit and shared additional pensions, payment of which has been deferred.

Regulation 16 amends regulation 19 (general disregards) to align the treatment of various payments with that for income tax purposes, to delete a disregard for sums accumulated to assist in self-employment, to add a disregard for payments by local authorities by way of special guardianship support.

Regulation 17 amends the Payment by Employers Regulations to update references in them in consequence of the rewriting of the Income Tax (Employments) Regulations 1993 (S.I. [1993/744](#)) as the Income Tax (Pay As You Earn) Regulations 2003 (S.I. [2003/2682](#)). It also aligns the computation of interest on payments of tax credits made by an employer in all cases by amending regulation 8 of those Regulations.

Regulation 18 amends the Payments by the Board Regulations, inserting a new regulation 12A which prescribes a limit on the recovery of overpayments of tax credit from other payments of tax credits.

Regulation 19 makes an amendment to the Polygamous Marriages Regulations consequent upon the substitution of regulation 34 of the Claims and Notifications Regulations.

These Regulations do not impose new costs on business.