

2002 No. 1696

**SOCIAL SECURITY
TAXES**

**The Tax Credits (Miscellaneous Amendments No. 4)
Regulations 2002**

<i>Made</i> - - - - -	<i>1st July 2002</i>
<i>Laid before Parliament</i>	<i>2nd July 2002</i>
<i>Coming into force</i> - -	<i>23rd July 2002</i>

The Treasury, in relation to regulations 1 to 4 and 6 to 11 and in exercise of the powers conferred upon them by sections 128(5), 136(3), 137(1) and (2)(a) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), and section 2(1)(a) of, and paragraphs 1(c) and (g) and 20(a) of Schedule 2 to, the Tax Credits Act 1999(b), and the Commissioners of Inland Revenue, in relation to regulations 1 to 5, 12 and 13 and in exercise of the powers conferred upon them by sections 1(1C)(b), 5(1)(a) and 189(1), (4) and (5) of the Social Security Administration Act 1992(c), and section 2(1)(c) of, and paragraphs 7(b) and 20(c) of Schedule 2 to, the Tax Credits Act 1999, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the the Tax Credits (Miscellaneous Amendments No. 4) Regulations 2002 and shall come into force on 23rd July 2002.

(2) Regulations 3 to 9 have effect in relation to award periods of working families' tax credit commencing on or after 23rd July 2002.

(3) Regulations 10 and 11 have effect in relation to award periods of disabled person's tax credit commencing on or after 23rd July 2002.

(4) Regulations 12 and 13 have effect in relation to claims for working families' tax credit made on or after 23rd July 2002; and a claim for working families' tax credit made after 23rd July 2002 but before 22nd August 2002 by a Crown servant posted overseas at the date of claim, or by his partner where the Crown servant is posted overseas at the date of the claim, shall be treated as having been made on 23rd July 2002.

(a) 1992 c. 4. Section 128(5) was amended by paragraph 2(g) of Schedule 1 to the Tax Credits Act 1999 (c. 10). Section 137(1) is cited because of the meaning it ascribes to the word "prescribed". Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) 1999 c. 10.

(c) 1992 c. 5. Subsections (1A) to (1C) of section 1 were inserted by section 19 of the Social Security Administration (Fraud) Act 1997 (c. 47). Section 189(1), (4) and (5) was amended by paragraph 109(a), (c) and (d) of Schedule 7, and Schedule 8, to the Social Security Act 1998 (c. 14), and section 189(1) was amended further by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

Interpretation

2. In these Regulations—
 - “the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(a);
 - “Crown servant posted overseas” means a person performing the duties of any office or employment under the Crown in right of the United Kingdom who is, or was prior to his posting, ordinarily resident in the United Kingdom;
 - “the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991(b);
 - “the Family Credit Regulations” means the Family Credit (General) Regulations 1987(c).

Amendments to the Family Credit Regulations

3. Amend the Family Credit Regulations as follows.
4. In regulation 2(1) after the definition of “Crown property” insert the following definition—
 - ““Crown servant posted overseas” means a person performing the duties of any office or employment under the Crown in right of the United Kingdom who is, or was prior to his posting, ordinarily resident in the United Kingdom;”.
5. In regulation 2A(d) after paragraph (c) add the following paragraph—
 - “(d) to a partner of a Crown servant posted overseas who has no national insurance number and is not a UK national.”.
6. In regulation 3 after paragraph (1)(e) insert the following paragraph—
 - “(1ZA) A Crown servant posted overseas, or his partner, shall be treated as being in Great Britain for the duration of his posting.”.
7. In regulation 14 after paragraph (6) insert the following paragraph—
 - “(6ZA) Where at the date of claim—
 - (a) the claimant is a Crown servant posted overseas or a partner of such a Crown servant, and
 - (b) either or both of them has employment other than as a Crown servant which is carried on in an overseas territory,the Board shall require either or both of them to furnish either evidence of earnings from that employment or, if that is not available, an estimate of likely earnings from that employment for the pay periods for which they will normally be paid, and normal weekly earnings shall be determined by taking account of that evidence or estimate.”.
8. In regulation 20—
 - (a) in paragraph (3)(f) after the words “paragraph (4)” insert “or (4A)”;
 - (b) after paragraph (4) insert the following paragraph—
 - “(4A) Where earnings are estimated under paragraph (6ZA) of regulation 14 (normal weekly earnings of employed earner in overseas territory), net earnings shall be calculated by taking into account those earnings over the period in respect of which the estimate is made, less—
 - (a) the amount (if any) of income tax deducted in respect of those earnings in accordance with the laws of the overseas territory concerned,
 - (b) the amount (if any) of social security contributions deducted in respect of those earnings in accordance with those laws, and

(a) S.I. 1987/1968.

(b) S.I. 1991/2887.

(c) S.I. 1987/1973.

(d) Regulation 2A was inserted by regulation 6 of S.I. 1997/2676.

(e) Regulation 3(1) was amended by regulation 6(a) of S.I. 1996/30.

(f) Paragraph (3) of regulation 20 was amended by regulation 7(b) of S.I. 1992/573, regulation 15(2) of S.I. 1994/2139 and regulation 3(5)(b) of S.I. 1996/3137.

(c) one half of any sum which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.”.

9. In regulation 46A(a)—

(a) in paragraph (2) in the definition of “relevant childcare charges”(b) after subparagraph (h) insert “or

(i) by a child care provider approved by an accredited organisation in accordance with regulation 4 of the Tax Credit (New Category of Child Care Provider) Regulations 2002(c),”;

(b) in paragraph (6C)(d) for “26” substitute “the number of weeks of the award”.

Amendment to the Disability Working Allowance Regulations

10. Amend the Disability Working Allowance Regulations as follows.

11. In regulation 51A(6C)(e) for “26” substitute “the number of weeks of the award”.

Amendments to the Claims and Payments Regulations

12. Amend the Claims and Payments Regulations as follows.

13. In regulation 2(1)—

(a) in the definition of “appropriate office”(f) add at the end “or, in the case of a Crown servant posted overseas or his partner, a Regimental Administrative Office, Unit Personnel Office, Personnel Management Squadron Office, British Embassy, High Commission or Consulate.”;

(b) after the definition of “Contributions and Benefits Act”(g) insert the following definition—

““Crown servant posted overseas” means a person performing the duties of any office or employment under the Crown in right of the United Kingdom who is, or was prior to his posting, ordinarily resident in the United Kingdom;”.

Nick Ainger

John Heppell

1st July 2002

Two of the Lords Commissioners of Her Majesty’s Treasury

Nick Montagu

Dave Hartnett

27th June 2002

Two of the Commissioners of Inland Revenue

(a) Regulation 46A was inserted as regulation 13A by regulation 4(4) of S.I. 1994/1924, and the inserted regulation was renumbered as regulation 46A by regulation 6 of S.I. 1999/2487.

(b) The definition of “relevant childcare charges” in regulation 46A was amended by regulation 4(2) of S.I. 1996/2545, regulation 12(a) of S.I. 1995/516, regulation 2(4) of S.I. 1997/2793, regulation 4(b) of S.I. 1999/714, regulation 8(2) of S.I. 1999/2487, regulation 5 of S.I. 2000/795 and regulation 3(2) of S.I. 2002/14.

(c) S.I. 2002/1417.

(d) Paragraphs (6A) to (6C) were inserted by regulation 4(d) of S.I. 1999/714 and amended by Schedule 1(1) to S.I. 1999/2487.

(e) Regulation 51A was inserted as regulation 15A by regulation 3(4) of S.I. 1994/1924, and the inserted regulation was renumbered as regulation 51A by regulation 17 of S.I. 1999/2487. Paragraphs (6A) to (6C) of regulation 51A were inserted by regulation 5(d) of S.I. 1999/714 and amended by Schedule 2(2) to S.I. 1999/2487.

(f) The definition of “appropriate office” was amended by regulation 2(2)(a)(i) of S.I. 1996/1460 and regulation 3(b) of S.I. 1999/2572.

(g) Inserted by regulation 9(2) of S.I. 2000/1483.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Family Credit (General) Regulations 1987 (S.I. 1987/1973), the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887) and the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968).

Regulations 3 to 9(a), 12 and 13 enable Crown servants posted overseas and their partners to make claims for working families' tax credit with effect from 23rd July 2002.

Regulations 9(b), 10 and 11 amend regulations 46A(6C) of the Family Credit Regulations and regulation 51A(6C) of the Disability Working Allowance Regulations (calculation of child care charges). The amendments are in consequence of the extension to 7th April 2003 of awards of working families' tax credit and disabled person's tax credit that become payable on or after 4th June 2002, by virtue of the Tax Credits (Prescribed Period of Awards) Regulations 2002 (S.I. 2002/1334).

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