

2016 No. 360

SOCIAL SECURITY

TAX CREDITS

**The Tax Credits and Child Benefit (Miscellaneous
Amendments) Regulations 2016**

<i>Made</i>	- - - -	<i>14th March 2016</i>
<i>Laid before Parliament</i>		<i>15th March 2016</i>
<i>Coming into force</i>	- -	<i>6th April 2016</i>

The Treasury, in exercise of the powers conferred upon them by sections 7(8) and (9), 8(2), 12(4), 65(1) and (7) and 67(a) of the Tax Credits Act 2002(b) and the powers conferred by sections 142(2) and 175 of, and paragraph 1 of Schedule 9 to, the Social Security Contributions and Benefits Act 1992(c) and sections 138(2) and 171 of, and paragraph 1(1) of Schedule 9 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(d) and now exercisable by them(e), and the Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 29(4), 65(2) and (7) and 67(f) of the Tax Credits Act 2002, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Tax Credits and Child Benefit (Miscellaneous Amendments) Regulations 2016 and come into force on 6th April 2016.

Amendment of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

2.—(1) The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(g) are amended as follows.

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- (a) See the definition of “prescribed”.
(b) 2002 c.21.
(c) 1992 c.4; section 142 was substituted by the Child Benefit Act 2005 (c.4), section 1(2); paragraph 1 of Schedule 9 was amended by the Child Benefit Act 2005, Schedule 1, paragraphs 1 and 17(1) and (2).
(d) 1992 c.7; section 138 was substituted by the Child Benefit Act 2005 (c.4), section 2(2); paragraph 1 of Schedule 9 was amended by the Child Benefit Act 2005, Schedule 1, paragraphs 27 and 43(2)(a) and S.I. 1998/1504, Schedule 5, paragraph 40.
(e) The powers of the Secretary of State under paragraph 1 of Schedule 9 to the Social Security Contributions and Benefits Act 1992 were transferred to the Treasury by section 49(1)(b) of the Tax Credits Act 2002. The powers of the Department for Social Development in Northern Ireland under paragraph 1(1) of Schedule 9 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 were transferred to the Treasury by section 49(2)(b) of the Tax Credits Act 2002.
(f) See the definitions of “the Board” and “prescribed”. The functions of the Commissioners of Inland Revenue under section 29(4) (read with sections 65 and 67) were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that, in so far as is appropriate in consequence of section 5, a reference, howsoever expressed, to the Commissioners of Inland Revenue is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
(g) S.I. 2002/2005; relevant amending instruments are S.I. 2008/604, 2010/2494, 2015/146.

- (2) In regulation 5(1), omit paragraph (ea)(a).
- (3) In regulation 14(2)(a), substitute the following for paragraph (vii)—
 - “(vii) by a carer provided by a person who is a service provider within the meaning of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(b) in relation to the regulated activity of personal care within paragraph 1 of Schedule 1 to those Regulations;”.

Amendment of the Tax Credits (Definition and Calculation of Income) Regulations 2002

3.—(1) The Tax Credits (Definition and Calculation of Income) Regulations 2002(c) are amended as follows.

(2) In regulation 7(3), Table 3, item 21A(d) (disregard of statutory paternity pay in calculating social security income), after “statutory paternity pay” omit “and”.

(3) In regulation 12(3) (disregards in calculating foreign income), after sub-paragraph (aa)(e), insert—

“(bb) any pension, annuity, allowance or other payment provided in accordance with the provisions of the scheme established under the law of the Netherlands and known as *Wet uitkeringen vervolgingsslachtoffers 1940-1945* (Netherlands Benefit Act for Victims of Persecution 1940-1945).”.

(4) In regulation 19 (general disregards in the calculation of income)—

- (a) in Table 6, item 14, before “or section 8” insert “, sections 50 to 53 of the Social Services and Well-being (Wales) Act 2014(f)”;
- (b) in Table 8, item 3(dza)(g), after “support)” insert “or section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult)”.

Amendment of the Child Tax Credit Regulations 2002

4.—(1) The Child Tax Credit Regulations 2002(h) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “looked after by a local authority”, after “1989,” insert “section 74 of the Social Services and Well-being (Wales) Act 2014,”.

(3) In regulation 3(1) (circumstances in which a person is or is not responsible for a child or qualifying young person), in Rule 4.1—

- (a) in Case A—
 - (i) before “Part II of the Children (Scotland)” insert “Parts 4 or 6 of the Social Services and Well-being (Wales) Act 2014,”;
 - (ii) omit “or section 23”;
 - (iii) before “or regulation 33” insert “or section 81(13) of the Social Services and Well-being (Wales) Act 2014”.
- (b) in Case B—
 - (i) omit “or section 23”;
 - (ii) before “regulation 33” insert “section 81(13) of the Social Services and Well-being (Wales) Act 2014,”.

(a) paragraph (ea) was inserted by S.I. 2010/2494 and amended by S.I. 2015/146.
 (b) S.I. 2014/2936, to which there are amendments not relevant to these Regulations. “Service provider” is defined by regulation 2(1).
 (c) S.I. 2002/2006; relevant amending instruments are S.I. 2003/732, 2007/824, 2010/2494, 2014/3255.
 (d) Item 21A was inserted by S.I. 2003/732.
 (e) Sub-paragraph (aa) was inserted by S.I. 2007/824.
 (f) 2014 anaw. 4.
 (g) Paragraph 3(dza) was inserted by 2015/643.
 (h) S.I. 2002/2007; amended by S.I. 2011/1740, 2012/848; there are other amending instruments but none is relevant.

Amendment of the Tax Credits (Payments by the Commissioners) Regulations 2002

5.—(1) The Tax Credits (Payments by the Commissioners) Regulations 2002(a) are amended as follows.

(2) In regulation 12A (recovery of overpayments of tax credit from other payments of tax credit)—

- (a) in paragraph (2)(c), for “25%” substitute “the income-related percentage”;
- (b) After regulation 12A(2) insert—

“(2A) In paragraph (2)(c), “the income-related percentage” means—

- (a) 50% if annual income exceeds £20,000; and
- (b) 25% in any other case.

(2B) For the purposes of paragraph (2A)(a), “annual income”—

- (a) means the annual income of the person or, in the case of a joint claim, the aggregate annual income of the persons, mentioned in paragraph (2)(c); and
- (b) is to be taken to be the amount that the Commissioners are for the time being treating that income to be for the purposes of Part 1 of the Act, regardless of whether that amount is also “the relevant income” (as defined by section 7(3) of the Act) on which the entitlement to the tax credit mentioned in paragraph (2)(c) is dependent.”.

Amendment of the Child Benefit (General) Regulations 2006

6.—(1) The Child Benefit (General) Regulations 2006(b) are amended as follows.

(2) In regulation 1(3) (interpretation), in the definition of “approved training”, in paragraph (b) omit ““Skillbuild”, “Skillbuild+” or”.

(3) In regulation 16 (child or qualifying young persons in detention, care etc)—

- (a) in paragraph (3)(a)—
 - (i) at the end of paragraph (v) omit “or”;
 - (ii) at the end of paragraph (vi) insert “or”;
 - (iii) after paragraph (vi) insert—

“(vii) Parts 4 and 6 of the Social Services and Well-being (Wales) Act 2014 and any regulations made under those parts,”;
 - (iv) omit “or 23”;
 - (v) after “regulation 33 of the Looked After Children (Scotland) Regulations 2009(c)”, insert “or under section 81(13) of the Social Services and Well-being (Wales) Act 2014”.
- (b) in paragraph (4)—
 - (i) omit “or 23”;
 - (ii) for “2009 or” substitute “2009,”;
 - (iii) after “1995 Order” insert “or under section 81(13) of the Social Services and Well-being (Wales) Act 2014”.

(a) S.I. 2002/2173; amended by S.I. 2004/762; there are other amending instruments but none is relevant.

(b) S.I. 2006/223; amended by S.I. 2012/818; there are other amending instruments but none is relevant.

(c) S.I. 2009/210; amended by 2013/147; there are other amending instruments but none is relevant.

(4) In regulation 18(a) (child or qualifying young person in care), after “1989 Act,” insert “under Part 4 or 6 of the Social Services and Well-being (Wales) Act 2014,”.

George Hollingbery

Charlie Elphicke

14th March 2016

Two of the Lords Commissioners of Her Majesty’s Treasury

Jim Harra

Jennie Granger

14th March 2016

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various Regulations concerning tax credits and child benefit.

The Working Tax Credits (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) are amended by regulation 2 of these Regulations. Under regulation 14 of the 2002 Regulations, only charges for ‘child care’ as defined in regulation 14(2) are taken into account in calculating the amount of the child care element of working tax credit provided for by section 12 of the Tax Credits Act 2002 (c.21). Regulation 2(3) of these Regulations amend one aspect of that definition that applies in England, by replacing a reference to care provided for a child by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 (S.I. 2002/3212). Those Regulations were revoked by Schedule 2 to the Health and Social Care Act 2008 (Commencement No. 16, Transitory and Transitional Provisions) Order 2010 (SI 2010/807). Instead, the definition will include care provided for a child by a carer provided by a person registered with the Care Quality Commission as a service provider in relation to the regulated activity of personal care within paragraph 1 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (S.I. 2014/2936). In addition, regulation 2(2) of these Regulations removes from regulation 5 of the 2002 Regulations some words which have become redundant as a result of a previous amendment made by the Shared Parental Leave and Statutory Sick Pay (Consequential Amendments to Subordinate Legislation) Order (Northern Ireland) 2015 (S.I. 2015/146).

The Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) are amended in three respects. First, payments from a named scheme established under the law of the Netherlands (known in English as Netherlands Benefit Act for Victims of Persecution 1940-1945) are to be disregarded in calculating foreign income for tax credit purposes (regulation 3(3) of these Regulations). Secondly, certain payments made under the Social Services and Well-being (Wales) Act 2014 (anaw 4) are to be disregarded in the calculation of income for tax credit purposes (regulation 3(4) of these Regulations). These are direct payments to meet a person’s needs for care and support under sections 50 to 53 of the Act, and certain payments for the provision of accommodation in respect of meeting a person’s needs for care and support under sections 35 or 36 of the Act. Thirdly, an error is corrected in regulation 7(3), Table 3, item 21A, of the 2002 Regulations by omitting the word ‘and’ (regulation 3(2) of these Regulations).

The Child Tax Credits Regulations 2002 (S.I. 2002/2007) are amended by regulation 4 of these Regulations in consequence of the Social Services and Well-being (Wales) Act 2014. The effect is that a person in Wales remains ineligible for child tax credit where the child or young person is being provided with funded accommodation by a Welsh local authority (under provisions of the Act that supersede provisions hitherto contained in the Children Act 1989).

The Tax Credits (Payments by the Commissioners) Regulations 2002 (S.I. 2002/2173) are amended (by regulation 5 of these Regulations) to alter the maximum rate at which overpayments of tax credit may be recovered from other payments of tax credit under regulation 12A(2)(c) of the 2002 Regulations (which sets the residual rate applicable in cases which do not fall within regulation 12A(2)(a) or (b)). This rate has hitherto been 25%. These Regulations will allow a rate of up to 50% to be used where the annual income of the claimant (or, in the case of a joint claim, the aggregate annual income of the claimants) exceeds £20,000.

The Child Benefit (General) Regulations 2006 (S.I. 2006/223) are amended in two respects by regulation 6 of these Regulations. First, references to ‘Skillbuild’ and ‘Skillbuild+’ are removed from the definition of ‘approved training’. Training under these schemes ceased on 31st July 2013. Secondly, the Regulations are amended in consequence of the Social Services and Well-being (Wales) Act 2014. The effect is that a person in Wales remains ineligible for child benefit where the child or young person is being provided with funded accommodation by a Welsh local authority (under provisions of the Act that supersede provisions hitherto contained in the Children Act 1989 (c.41)).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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