

2020 No. 672

SOCIAL SECURITY

TAX CREDITS

The Child Benefit and Child Tax Credit (Persons of Northern Ireland) (Amendment) Regulations 2020

<i>Made</i>	- - - -	<i>1st July 2020</i>
<i>Laid before Parliament</i>		<i>2nd July 2020</i>
<i>Coming into force</i>	- -	<i>24th August 2020</i>

The Treasury, in exercise of the powers conferred by sections 146(3) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a), sections 142(3) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and now exercisable by them(c), and sections 3(7) and 65(1) and (7) of the Tax Credits Act 2002(d), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Child Benefit and Child Tax Credit (Persons of Northern Ireland) (Amendment) Regulations 2020 and come into force on 24th August 2020.

Amendment of the Child Benefit (General) Regulations 2006

2.—(1) The Child Benefit (General) Regulations 2006(e) are amended as follows.

(2) In regulation 1(3) (citation, commencement and interpretation), in the appropriate place insert—

““relevant person of Northern Ireland” means a person who—

-
- (a) 1992 c. 4; section 146 was substituted by section 56(1) of the Tax Credits Act 2002 (c. 21) and subsection (3) of section 146 was subsequently amended by paragraph 13(3)(b) of Part 1 of Schedule 1 to the Child Benefit Act 2005 (c. 6). Section 175 was amended by paragraph 29(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2). Section 147(1) defines “prescribed” as meaning “prescribed by regulations”.
- (b) 1992 c. 7; section 142 was substituted by section 56(2) of the Tax Credits Act 2002 and subsection (3) of section 142 was subsequently amended by paragraph 39(3) of Part 2 of Schedule 1 to the Child Benefit Act 2005. Section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002. Section 143(1) defines “prescribed” as meaning “prescribed by regulations”.
- (c) The powers of the Secretary of State under section 146(3) of 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 section 142(3) of 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.
- (d) 2002 c. 21; section 3 was repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) as commenced by S.I. 2019/167 (C.6). However this repeal is subject to the savings provision in article 3 of that instrument under which tax credits continue to subsist for specific categories of claimant. Section 67 defines “prescribed” as meaning “prescribed by regulations”. Section 67 has been amended, but the amendment is not relevant for the purposes of this instrument.
- (e) S.I. 2006/223; relevant amending instruments are S.I. 2007/2150, S.I. 2012/2612, S.I. 2014/1511, S.I. 2019/364 and S.I. 2019/867.

- (a) is—
 - (i) a British citizen; or
 - (ii) an Irish citizen; or
 - (iii) a British citizen and an Irish citizen; and
- (b) was born in Northern Ireland and, at the time of that person’s birth, at least one of their parents was—
 - (i) a British citizen; or
 - (ii) an Irish citizen; or
 - (iii) a British citizen and an Irish citizen; or
 - (iv) otherwise entitled to reside in Northern Ireland without any restriction on their period of residence;”.
- (3) In regulation 23 (circumstances in which person treated as not being in Great Britain)(a)—
 - (a) after paragraph (4A) insert—

“(4B) Paragraph (4)(c) does not apply to a person who—

 - (a) has limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971(b) which has been granted by virtue of Appendix EU to the Immigration Rules(c);
 - (b) has been granted such leave in reliance of being a family member of a relevant person of Northern Ireland(d) in accordance with those Rules; and
 - (c) would have a right to reside under the Immigration (European Economic Area) Regulations 2016(e) if the relevant person of Northern Ireland were an EEA national within the meaning of regulation 2 of those Regulations.”; and
 - (b) in paragraph (7), for “In this regulation” substitute “For the purposes of paragraph (6)(e)”.
- (4) In regulation 27 (circumstances in which person treated as not being in Northern Ireland)(f)—
 - (a) after paragraph (3A) insert—

“(3B) Paragraph (3)(c) does not apply to a person who—

 - (a) has limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 which has been granted by virtue of Appendix EU to the Immigration Rules;
 - (b) has been granted such leave in reliance of being a family member of a relevant person of Northern Ireland in accordance with those Rules; and
 - (c) would have a right to reside under the Immigration (European Economic Area) Regulations 2016 if the relevant person of Northern Ireland were an EEA national within the meaning of regulation 2 of those Regulations.”; and
 - (b) in paragraph (6), for “In this regulation” substitute “For the purposes of paragraph (5)(e)”.

(a) Regulation 23 was relevantly amended by regulation 8 of S.I. 2007/2150, regulation 3 of S.I. 2012/2612, regulation 3 of S.I. 2014/1511, regulation 11 of S.I. 2019/364 and regulation 2 of S.I. 2019/867.

(b) 1971 c. 77; there are amendments but none is relevant.

(c) Laid before Parliament on 23rd May 1994 (HC 395), as amended. Appendix EU was laid before Parliament on 20th July 2018 (CM 9675) and the changes to Appendix EU in respect of relevant persons of Northern Ireland were laid before Parliament on 14th May 2020 (CP 232).

(d) For the meaning of ‘family member’, see the definition of ‘family member of a relevant EEA citizen’ in Annex 1 of Appendix EU to the Immigration Rules. ‘Relevant EEA citizen’ is defined in Annex 1 by reference to ‘EEA citizen’. ‘EEA citizen’ is defined in Annex 1 as including a ‘relevant person of Northern Ireland’.

(e) S.I. 2016/1052; relevant amending instruments are S.I. 2018/801, S.I. 2019/468 and S.I. 2019/1155.

(f) Regulation 27 was relevantly amended by regulation 10 of S.I. 2007/2150, regulation 4 of S.I. 2012/2612, regulation 4 of S.I. 2014/1511, regulation 11 of S.I. 2019/364 and regulation 2 of S.I. 2019/867.

Amendment of the Tax Credit (Residence) Regulations 2003

3.—(1) The Tax Credits (Residence) Regulations 2003(a) are amended as follows.

(2) In regulation 3 (circumstances in which a person is treated as not being in the United Kingdom)(b)—

(a) after paragraph (5A) insert—

“(5B) Paragraph (5)(b)(iii) does not apply to a person who—

- (a) has limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 which has been granted by virtue of Appendix EU to the Immigration Rules;
- (b) has been granted such leave in reliance of being a family member of a relevant person of Northern Ireland in accordance with those Rules; and
- (c) would have a right to reside under the Immigration (European Economic Area) Regulations 2016 if the relevant person of Northern Ireland were an EEA national within the meaning of regulation 2 of those Regulations.”;

(b) in paragraph (8), for “In this regulation” substitute “For the purposes of paragraph (7)(e)”; and

(c) after paragraph (10) insert—

“(11) In this regulation, “relevant person of Northern Ireland” means a person who—

(a) is—

- (i) a British citizen; or
- (ii) an Irish citizen; or
- (iii) a British citizen and an Irish citizen; and

(b) was born in Northern Ireland and, at the time of that person’s birth, at least one of their parents was—

- (i) a British citizen;
- (ii) an Irish citizen; or
- (iii) a British citizen and an Irish citizen; or

(iv) otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.”.

Michael Tomlinson

Maggie Throup

Two of the Lords Commissioners of Her Majesty’s Treasury

1st July 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Benefit (General) Regulations 2006 (S.I. 2006/223) (“the Child Benefit Regulations”) and the Tax Credits (Residence) Regulations 2003 (S.I. 2003/654) (“the Residence Regulations”).

Regulation 2 inserts new paragraphs (4B) and (3B) into regulations 23 and 27 of the Child Benefit Regulations respectively. These provide that paragraphs (4)(c) and (3)(c) respectively do not apply

(a) S.I. 2003/654; relevant amending instruments are S.I. 2004/1243, S.I. 2012/2612, S.I. 2014/1511, S.I. 2018/788 S.I. 2019/364 and S.I. 2019/867.

(b) Regulation 3 was relevantly amended by regulation 3 of S.I. 2004/1243, regulation 6 of S.I. 2012/2612, regulation 6 of S.I. 2014/1511, regulation 4 of S.I. 2018/788, regulation 7 of S.I. 2019/364 and regulation 3 of S.I. 2019/867.

to a person with limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 (c. 77) which has been granted by virtue of Appendix EU to the Immigration Rules (Laid before Parliament on 23rd May 1994 (HC 395), as amended), and who has been granted such leave because they are a family member of a person of Northern Ireland, where that person would have had a right to reside under the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) (“EEA Regulations”) if the relevant person of Northern Ireland were an EEA national within the meaning of the EEA Regulations.

Regulation 2 also amends the definition of “family member” in regulations 23(7) and 27(6) of the Child Benefit Regulations and inserts a definition of “relevant person of Northern Ireland” into regulation 1 of those Regulations. This definition of “relevant person of Northern Ireland” aligns with the definition used in Appendix EU to the Immigration Rules.

Regulation 3 makes equivalent amendments to regulation 3 of the Residence Regulations.

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

© Crown copyright 2020

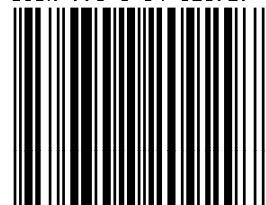
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.90

UK202007011020 07/2020 19585

<http://www.legislation.gov.uk/id/uksi/2020/672>

ISBN 978-0-34-820929-7



9 780348 209297