

2009 No. 2887

TAX CREDITS

**The Tax Credits (Miscellaneous Amendments) (No. 2)
Regulations 2009**

Made - - - - - *28th October 2009*

Laid before Parliament *30th October 2009*

Coming into force in accordance with regulation 1

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs.

The powers exercised by Treasury are those contained in sections 7(8) and (9), 11(1), (5) and (6), 12(3) and (4), 65(1) and (7) and 67 of the Tax Credits Act 2002(a).

The powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those contained in sections 4(1)(b), 65(2) and (7) and 67 of that Act(c).

Citation and commencement

1. These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2009 and shall come into force—

- (a) for all purposes other than those of regulation 3 on 21st November 2009; and
- (b) for the purposes of regulation 3 on 6th April 2010.

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

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

3.—(1) Amend regulation 11 (second adult element) as follows.

- (2) In paragraph (4) for “section 115(9)(a)” substitute “section 115(9)”.
- (3) After paragraph (4) insert—

(a) 2002 c. 21. Section 67 is cited because of the meaning it ascribes to “prescribed”.
(b) Section 4(1) was amended by paragraph 145 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).
(c) By virtue of section 65(2), the powers in section 4(1) were exercisable by the Board. The Board is defined in section 67 as the Commissioners of Inland Revenue. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, insofar as is appropriate in consequence of section 5, a reference to the Commissioners of Inland Revenue shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 67 is cited because of the meaning it ascribes to “prescribed”.
(d) S.I. 2002/2005; relevant amending instruments are S.I. 2003/701, 2004/1276 and 2009/697.

“(5) Paragraph (4)(b) does not apply where the claimant subject to immigration control is a person to whom Case 4 of regulation 3(1) of the Tax Credits (Immigration) Regulations 2003(a) applies.”.

4.—(1) Amend regulation 14 (child care charges) as follows.

(2) In paragraph (1A).

- (a) in sub-paragraph (d) for “regulation 14(2)(f)(ii)” substitute “regulation 14(2)(f)(vii)”,
- (b) in sub-paragraph (e)—
 - (i) after “a foster parent” add “, a foster carer or a kinship carer”, and
 - (ii) for “that foster parent is fostering” substitute “that person is fostering or is looking after as the child’s kinship carer”.

(3) In paragraph (1B), after sub-paragraph (b), insert—

- “(c) “foster parent” in relation to a child—
 - (i) in relation to England, means a person with whom the child is placed under the Fostering Services Regulations 2002(b);
 - (ii) in relation to Wales, means a person with whom the child is placed under the Fostering Services (Wales) Regulations 2003(c);
 - (iii) in relation to Northern Ireland, means a person with whom the child is placed under the Foster Placement (Children) Regulations (Northern Ireland) 1996(d); and
- (d) “foster carer” and “kinship carer” have the meanings given in regulation 2 of the Looked After Children (Scotland) Regulations 2009(e).”.

(4) In paragraph (2)

- (a) In sub-paragraph (b) for paragraph (iii) substitute—
 - “(iii) by a foster carer in relation to a child other than one whom that person is fostering;”;
- (b) in sub-paragraph (c)(iv) omit “under the Foster Placement (Children) Regulations (Northern Ireland) 1996”;
- (c) in sub-paragraph (f)(v) omit “under the Fostering Services (Wales) Regulations 2003”.

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

5. The Tax Credits (Definition and Calculation of Income) Regulations 2002(f) are amended as follows.

6. In regulation 4(4) (employment income) in item 16 of Table 1—

- (a) at the end of paragraph (d) omit “or”,
- (b) at the end of paragraph (e) insert—
 - “, or
 - (f) under the Future Capital pilot scheme.”.

7.—(1) Regulation 19 (general disregards in the calculation of income) is amended as follows.

(2) In item 3 of Table 6—

- (a) at the end of paragraph (a) omit “or”,

(a) S.I. 2003/653, to which there are amendments not relevant to these Regulations.
(b) S.I. 2002/57, amended by S.I. 2002/865; there are other amending instruments but none is relevant.
(c) S.I. 2003/237, to which there are amendments not relevant to these Regulations.
(d) S.R. (NI) 1996 No 467.
(e) S.S.I. 2009/210.
(f) S.I. 2002/2006; relevant amending instruments are S.I. 2004/762, 2008/2169 and 2009/697.

(b) after paragraph (b) insert—

“; or

(c) the Steps to Work Programme specified in regulation 75(1)(a)(vi) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(a).”.

(3) In item 2 of column 1 of Table 7—

(a) at the end of paragraph (c) omit “or”,

(b) after paragraph (d) insert—

“; or

(e) child care expenses under the Steps to Work Programme specified in regulation 75(1)(a)(vi) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996.”.

Amendment of the Tax Credits (Claims and Notifications) Regulations 2002

8.—(1) The Tax Credits (Claims and Notifications) Regulations 2002(b) are amended as follows.

(2) In the following places for “three months” or “3 months” (as the case may be) substitute “93 days”—

(a) in the heading to regulation 7;

(b) in regulation 7(2)(a);

(c) in regulation 8(2)(b);

(d) in regulation 8(3)(b).

Dave Watts
Tony Cunningham

28th October 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

Mike Eland
Steve Lamey

28th October 2009

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

(a) S.R. (NI) 1996 No 198; paragraph (vi) was added by the Social Security (Steps to Work) Regulations (Northern Ireland) 2009 (S.R. (NI) 2009 No 141).

(b) S.I. 2002/2014, amended by S.I. 2009/697; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (“the Entitlement Regulations”), the Tax Credits (Definition and Calculation of Income) Regulations 2002 (“the Income Regulations”) and the Tax Credits (Claims and Notifications) Regulations 2002 (“the Claims Regulations”).

Regulations 2 to 4 amend the Entitlement Regulations.

Regulation 3 amends regulation 11 of the Entitlement Regulations. It amends regulation 11(4) to provide that the second adult element of working tax credit is denied in the case of joint claims made by a couple who are not responsible for a child or qualifying young person and where one claimant is subject to immigration control. It inserts a new regulation 11(5) to provide that this restriction is not applicable to nationals of those countries which are governed by the European Convention on Social and Medical Assistance 1953 or the Council of Europe Social Charter 1961 (Croatia, the former Yugoslav Republic of Macedonia and Turkey). The text of both of these documents may be located at the website of the Treaty Office of the Council of Europe (www.conventions.coe.int).

Regulation 4 amends regulation 14 of the Entitlement Regulations. It makes a technical correction to regulation 14(1A)(d) of the Entitlement Regulations. It amends regulation 14(1A)(e) of the Entitlement Regulations so as to provide that relevant childcare charges which currently do not include charges in respect of care provided by a foster parent in respect of a child whom that foster parent is fostering, will also not include charges in respect of care provided by a foster carer or a kinship carer. It also provides definitions for “foster parent”, “foster carer” and “kinship carer”. It amends the Entitlement Regulations to reflect the replacement of the Fostering of Children (Scotland) Regulations 1996 by the Looked After Children (Scotland) Regulations 2009 with effect from 28 September 2009. Lastly, it removes two references to the definition of a foster parent in Northern Ireland and Wales, which are now superfluous following the insertion of a general definition of “foster parent”.

Regulations 5 to 7 amend the Income Regulations.

Regulation 6 amends Table 1 in regulation 4, which lists payments and benefits that are disregarded in the calculation of employment income. It inserts a new sub-paragraph which provides that payments by the Department for Work and Pensions under its Future Capital pilot scheme are disregarded in calculating employment income.

Regulation 7 introduces changes to Tables 6 and 7 of regulation 19 of the Income Regulations, which provide that mandatory top-up payments and payments of child care expenses under the Steps to Work programme in Northern Ireland are disregarded in calculating income.

Regulation 8 amends the Claims Regulations. It alters various references in those Regulations from either “three months” or “3 months” to “93 days”.

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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