

**EXPLANATORY MEMORANDUM TO**  
**THE TAX CREDITS (MISCELLANEOUS AMENDMENTS) (No. 3)**  
**REGULATIONS 2010**

**S. I. 2010 No. 2914**

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The purpose of this statutory instrument is to make technical and consequential changes to the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) (“the Income Regulations”), the Tax Credits (Payments by the Commissioners) Regulations 2002 (S.I. 2002/2173) (“the Payments Regulations”), the Child Tax Credit Regulations 2002 (S.I. 2002/2007) (“the Child Tax Credit Regulations”), the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) (“the Entitlement Regulations”) and the Tax Credits (Claims and Notifications) Regulations 2002 (S.I. 2002/2014) (“the Claims Regulations”).

2.2 This instrument encompasses various miscellaneous amendments to the Tax Credits Regulations, which are either mainly of a consequential or technical nature or improve the operation of the tax credits system for the benefit of the customer.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 This instrument amends the Regulations described in paragraph 2.1, in exercise of powers afforded to the Treasury and to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) by the Tax Credits Act 2002 (c. 21). The powers afforded by sections 7(8) and (9), 8, 10, 11, 12(3) and (4) are exercisable by the Treasury. The powers afforded by sections 4(1), and 24(7) are exercisable by the Commissioners.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*  
**Amendments to the Income Regulations**

7.1 These regulations make changes to reflect the current legislation.

7.2 Firstly, regulations 2 (Interpretation) and 5 (Pension Income) of the Income Regulations are amended to reflect the fact that the Naval, Military & Air Forces, etc (Disablement & Death) Service Pensions Order 1983 was revoked in 2006.

7.3 Secondly, item 12 in Table 6 in regulation 19 (general disregards in the calculation of income) is amended to refer to the NHS Travelling Expenses and Remission of Charge Regulations now in force in different parts of the United Kingdom.

### **Amendments to the Payments Regulations**

7.4 Currently, tax credit customers can ask to change the frequency of their tax credit payments from four-weekly to weekly (and vice versa) as often as they wish. This can affect the total amount paid and create avoidable overpayments. Regulation 8 of the Payments Regulations is therefore amended to provide that the Commissioners have an overriding discretion to make the payments either every week or every four weeks as they determine.

### **Amendments to the Child Tax Credit Regulations 2002**

7.5 A minor technical adjustment is made to insert in the definition of a “qualifying body” in regulation 2 (Interpretation) a reference to Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ No L 166 30.4.04, p1-123), which took effect on 1 May 2010. This ensures that a body in another EU Member State which corresponds to one of the specified UK bodies is recognised for the purpose of entitlement to the child tax credit in respect of a qualifying young person who is registered for work or training.

### **Amendments to the Entitlement Regulations**

7.6 From April 2011, a new entitlement to Working Tax Credit (WTC) is to be introduced. This will allow those workers who are aged 60 or over to qualify for WTC if they work 16 hrs or more a week. The necessary changes to regulation 4(1) of the Entitlement Regulations are in Regulation 11.

7.7 The regulations also make a change to regulation 11 (second adult element) of the Entitlement Regulations, to ensure that those claimants who qualify for the 60 plus element of WTC, and who may also qualify for the 50

plus element of WTC, will not be excluded from receiving the second adult element.

### **Amendments to the Claims Regulations**

7.8 The regulations make changes to regulation 12(7) (circumstances in which claims to be treated as made, etc) and inserts new regulation 12(8) of the Claims Regulations, to give the Commissioners the power to advise claimants in advance of the end of the year that a response to a notice under section 17 of the Tax Credits Act 2002 will not be treated as a claim for the following tax year. This has been introduced in order to cater for the increasing number of cases where the claimant's entitlement to tax credits is either 'nil' or is likely to reduce to 'nil' in the next tax year as a result of changes announced in the June 2010 Budget and which will come into effect from 6 April 2011. However, regulation 12(7) provides further that notwithstanding any such notification from the Commissioners, a claimant nevertheless will still be able to specify that a response to a notice under section 17 will be treated as a claim for tax credits for the following tax year.

### **Consolidation**

7.9 HMRC publishes consolidated Regulations on their web site. These will be made available as soon as possible after the Statutory Instrument is published.

## **8. Consultation outcome**

8.1 There is no statutory requirement to consult on these Regulations. However, the Social Security Advisory Committee (SSAC) has considered these regulatory changes under its Memorandum of Understanding with HMRC.

## **9. Guidance**

9.1 The provisions of these amending regulations will be reflected in the Tax Credits Technical Manual. This is available on the HMRC website at [www.hmrc.gov/taxcredits/manuals/tctmanual/index.htm](http://www.hmrc.gov/taxcredits/manuals/tctmanual/index.htm).

## **10. Impact**

10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.

10.2 The changes to Tax Credits pursuant to these Regulations will have a negligible impact on the Exchequer.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 These changes are mainly consequential and technical and do not require further review.

## **13. Contact**

Trevor Sanders at HMRC Tel: 020 7147 2272 or email:

[Trevor.sanders@hmrc.gsi.gov.uk](mailto:Trevor.sanders@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.