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STATUTORY INSTRUMENTS

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**2003 No. 701**

**TAX CREDITS**

**The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2003**

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| <i>Made</i>                   | - - - - | <i>14 March 2003</i>  |
| <i>Laid before Parliament</i> |         | <i>14 March 2003</i>  |
| <i>Coming into force</i>      | - -     | <i>6th April 2003</i> |

The Treasury, in exercise of the powers conferred upon them by sections 10, 11, 12, 65(1), (7) and (9) and 67 of the Tax Credits Act 2002<sup>(1)</sup>, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2003 and shall come into force on 6th April 2003.

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

2. Amend the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>(2)</sup> as follows.

3.—(1) Amend regulation 2 (interpretation) as follows.

(2) In paragraph (1) in the definition of “claim” for “section 3(6)” substitute “section 3(8)”.

(3) In paragraph (1) for the definition of “employed” substitute—

““employed”, except in the expression “self-employed”, means employed under a contract of service or apprenticeship where the earnings under the contract are chargeable to income tax as employment income under Parts 2 to 7 of the Income Tax (Earnings and Pensions) Act 2003<sup>(3)</sup>”.

(4) In paragraph (1) for the definition of “initial claim” substitute—

““initial claim” shall be construed in accordance with regulation 9A”.

(5) In paragraph (1) after the definition of “local authority” insert—

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<sup>(1)</sup> 2002 c. 21. Section 67 is cited because of the meaning it ascribes to “prescribed”.

<sup>(2)</sup> S.I. 2002/2005.

<sup>(3)</sup> 2003 c. 1.

“partner” means a member of a married or unmarried couple making a joint claim;”.

(6) In paragraph (1) in the definition of “period of award” for “section 4” substitute “section 5”.

(7) In paragraph (1) omit the definitions of “Schedule E” and “the Taxes Act”.

(8) In paragraph (1) after the definition of “training allowance” insert—

““training for work” shall be construed in accordance with regulation 9B;”.

(9) After paragraph (3) insert—

“(4) In these Regulations as they apply to an office a reference to being employed includes a reference to being the holder of an office.”.

4.—(1) Amend regulation 4 (entitlement to basic element of working tax credit: qualifying remunerative work) as follows.

(2) In paragraph (1), in the wording relating to the “Second Condition”, for paragraph (a) substitute—

“(a) is aged at least 16 and—

(i) undertakes work for not less than 16 hours per week,

(ii) either he or his partner is responsible for a child or qualifying young person, or he has a physical or mental disability which puts him at a disadvantage in getting a job and satisfies regulation 9(1)(c),”.

(3) In paragraph (2)(f)(i) for “Table 8” substitute “Table 6”.

(4) After paragraph (4) insert—

“(5) In reckoning the number of hours of qualifying remunerative work which a person normally undertakes, any time allowed for visits to a hospital, clinic or other establishment for the purpose only of treating or monitoring the person’s disability shall be included; but only if the person is, or expects to be, paid in respect of that time.”.

5. For regulation 5 (maternity leave) substitute—

**“Time off in connection with maternity, paternity and adoption**

5.—(1) This regulation applies for any period during which a person—

(a) is paid maternity allowance,

(b) is paid statutory maternity pay,

(c) is absent from work during an ordinary maternity leave period under section 71 of the Employment Rights Act 1996(4) or Article 103 of the Employment Rights (Northern Ireland) Order 1996(5),

(d) is paid statutory paternity pay,

(e) is absent from work during a paternity leave period under section 80A of the Employment Rights Act 1996(6) or Article 112A of the Employment Rights (Northern Ireland) Order 1996(7),

(f) is paid statutory adoption pay, or

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(4) 1996 c. 18. Section 71 was substituted by Part I of Schedule 4 to the Employment Relations Act 1999 (c. 26).

(5) S.I. 1996/1919 (N.I. 16). Article 103 was substituted by Article 9 of, and Part I of Schedule 4 to, the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)).

(6) Article 80A was inserted by section 1 of the Employment Act 2002 (c. 22).

(7) Article 112A was inserted by Article 4 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)).

(g) is absent from work during an ordinary adoption leave period under section 75A of the Employment Rights Act 1996<sup>(8)</sup> or Article 107A of the Employment Rights (Northern Ireland) Order 1996<sup>(9)</sup>.

(2) For the purposes of the conditions in regulation 4(1), the person is treated as being engaged in qualifying remunerative work during the period.

This is subject to paragraph (3).

(3) The person must have been engaged in qualifying remunerative work immediately before the beginning of the period.

(4) A person who is self-employed is treated as engaged in qualifying remunerative work for the requisite number of hours during any period for which paragraph (1) would have applied in his case but for the fact that the work he performed in the week immediately before the period began, although done for payment or in the expectation of payment, was not performed under a contract of service or apprenticeship.”

6. For regulation 6 (periods for which statutory sick pay payable) substitute—

**“Periods of illness or incapacity for work**

6.—(1) This regulation applies for any period during which a person—

- (a) is paid statutory sick pay,
- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the Contributions and Benefits Act<sup>(10)</sup>,
- (c) is paid income support on the grounds of incapacity for work under paragraphs 7 and 14 of Schedule 1B to the Income Support (General) Regulations 1987<sup>(11)</sup>, or
- (d) receives national insurance credits on the grounds of incapacity for work under regulation 8B of the Social Security (Credits) Regulations 1975<sup>(12)</sup>.

(2) For the purposes of the conditions in regulation 4(1), the person is treated as being engaged in qualifying remunerative work during the period.

This is subject to paragraphs (3) and (4).

(3) The person must have been engaged in qualifying remunerative work immediately before the beginning of the period.

(4) If the person is paid income support as specified in paragraph (1)(c) or receives national insurance credits as specified in paragraph (1)(d) he is treated as being engaged in qualifying remunerative work for a period of 28 weeks only, beginning with the day on which he is first paid income support or receives national insurance credits (as the case may be).

(5) A person who is self-employed is treated as engaged in qualifying remunerative work for the requisite number of hours during any period for which paragraph (1) would have applied in his case but for the fact that the work he performed in the week immediately before the period began, although done for payment or in the expectation of payment, was not performed under a contract of service or apprenticeship.”

7. After regulation 7 (term time and other seasonal workers) insert—

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<sup>(8)</sup> Section 75A was inserted by section 3 of the Employment Act 2002.

<sup>(9)</sup> Article 107A was inserted by Article 3 of the Employment (Northern Ireland) Order 2002.

<sup>(10)</sup> Sections 30A to 30E of the Social Security (Contributions and Benefits) Act 1992 were inserted by sections 1 to 3 of the Social Security (Incapacity for Work) Act 1994 (c. 18) and by section 63 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>(11)</sup> S.I. 1987/1967. Schedule 1B was inserted by Schedule 1 to S.I. 1996/206.

<sup>(12)</sup> S.I. 1975/556. Regulation 8B was inserted by regulation 2(6) of S.I. 1996/2367.

**“Strike periods**

**7A.—**(1) This regulation applies for any period during which a person is on strike.

(2) For the purposes of the conditions in regulation 4(1), the person is treated as being engaged in qualifying remunerative work during the period.

This is subject to paragraph (3).

(3) The person—

(a) must have been engaged in qualifying remunerative work immediately before the beginning of the period, and

(b) must not be on strike for longer than a period of ten consecutive days on which he should have been working.

**Persons suspended from work**

**7B.—**(1) This regulation applies for any period during which a person is suspended from work while complaints or allegations against him are investigated.

(2) For the purposes of the conditions in regulation 4(1), the person is treated as being engaged in qualifying remunerative work during the period.

This is subject to paragraph (3).

(3) The person must have been engaged in qualifying remunerative work immediately before the beginning of the period.

**Pay in lieu of notice**

**7C.—**(1) This regulation applies if a person stops work and receives pay in lieu of notice.

(2) For the purposes of the conditions in regulation 4(1), the person shall not be treated as being engaged in qualifying remunerative work during the period for which he receives the pay.”

**8.** For regulation 9 (disability element and workers who are to be treated as at a disadvantage in getting a job) substitute—

**“Disability element and workers who are to be treated as at a disadvantage in getting a job**

**9.—**(1) The determination of the maximum rate must include the disability element if the claimant, or, in the case of a joint claim, one of the claimants—

(a) undertakes qualifying remunerative work for at least 16 hours per week;

(b) has any of the disabilities listed in Part 1 of Schedule 1, or in the case of an initial claim, satisfies the conditions in Part 2 of Schedule 1; and

(c) is a person who satisfies any of Cases A to G on a day for which the maximum rate is determined in accordance with these Regulations.

(2) Case A is where the person has been in receipt of the higher rate of short-term incapacity benefit, long-term incapacity benefit or severe disablement allowance<sup>(13)</sup> for at least one day in the preceding 182 days.

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(13) Severe disablement allowance ceased to be payable to new claimants by virtue of the coming into force of section 88 of and paragraphs 26 and 27 of Schedule 8 and Part 4 of Schedule 13 to the Welfare Reform and Pensions Act 2000, but continues to be payable to existing beneficiaries whose period of incapacity for work began before 6th April 2001 (see article 4 of S.I. 2000/2958).

(3) Case B is where, for at least one day in the preceding 182 days, the person has been a person for whom the applicable amount included a higher pensioner or disability premium determined—

- (a) in the case of income support, in accordance with paragraphs 10(1)(b) or (2)(b) or 11, and 12, of Part III of Schedule 2 to the Income Support (General) Regulations 1987<sup>(14)</sup>;
- (b) in the case of income-based jobseeker's allowance, in accordance with paragraph 12(1)(a), (b)(ii) or (c) or 13, and 14 of Schedule 1 to the Jobseeker's Allowance Regulations 1996<sup>(15)</sup>;
- (c) in the case of housing benefit, in accordance with paragraphs 10(1)(b) or (2)(b) or 11, and 12 of Part III of Schedule 2 to the Housing Benefit (General) Regulations 1987<sup>(16)</sup>;
- (d) in the case of council tax benefit, in accordance with paragraphs 11(1)(b) or (2)(b) or 12, and 13 of Part III of Schedule 1 to the Council Tax Benefit (General) Regulations 1992<sup>(17)</sup>.

For the purposes of this Case “the applicable amount” has the meaning given by section 135 of the Contributions and Benefits Act<sup>(18)</sup>.

(4) Case C is where the person is a person to whom at least one of the following is payable—

- (a) a disability living allowance;
- (b) an attendance allowance;
- (c) a mobility supplement or a constant attendance allowance which is paid, in either case, in conjunction with a war pension or industrial injuries disablement benefit.

(5) Case D is where the person has an invalid carriage or other vehicle provided under—

- (a) section 5(2)(a) of, and Schedule 2 to, the National Health Service Act 1977<sup>(19)</sup>,
- (b) section 46 of the National Health Service (Scotland) Act 1978<sup>(20)</sup>, or
- (c) Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(21)</sup>.

(6) Case E is where the person—

- (a) has received, on account of his incapacity for work, statutory sick pay, occupational sick pay, short-term incapacity benefit payable at the lower rate or income support, for a period of 140 qualifying days, or has been credited with Class 1 or Class 2 contributions under the Contributions and Benefits Act for a period of 20 weeks on account of incapacity for work, and where the last of those days or weeks (as the case may be) fell within the preceding 56 days;
- (b) has a disability which is likely to last for at least six months, or for the rest of his life if his death is expected within that time; and

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<sup>(14)</sup> S.I. 1987/1967. Relevant amending instruments are S.I. 1988/1967, 1991/2742, 1992/468, 1993/1150, 1994/2139 and 3061, 1995/482 and 2303, 1998/2231, 1999/2566, 2000/681 and 724.

<sup>(15)</sup> S.I. 1996/207. Relevant amending instruments are S.I. 1996/2538, 1998/2231, 1999/2566 and 2000/724.

<sup>(16)</sup> S.I. 1987/1971. Relevant amending instruments are S.I. 1988/1971, 1991/2742, 1993/317, 1994/2137, 1995/560, 626 and 2303, 1998/2231, 1999/2566, 2000/681 and 724.

<sup>(17)</sup> S.I. 1992/1814. Relevant amending instruments are S.I. 1994/2137, 1995/560, 626 and 2303, 1998/2231, 1999/2566 and 2000/724.

<sup>(18)</sup> Section 135 was amended by Part 3 of Schedule 6 to the Health and Social Care Act 2001 (c. 15).

<sup>(19)</sup> 1977 c. 49.

<sup>(20)</sup> 1978 c. 29.

<sup>(21)</sup> S.I. 1972/1265 (N.I. 14).

- (c) has gross earnings which are less than they were before the disability began by at least the greater of 20 per cent. and £15 per week.

For the purpose of this Case “qualifying days” are days which form part of a single period of incapacity for work within the meaning of Part 11 of the Contributions and Benefits Act.

- (7) Case F is where the person—

- (a) has undertaken training for work for at least one day in the preceding 56 days; and  
 (b) has received the higher rate of short-term incapacity benefit, long-term incapacity benefit or severe disablement allowance within 56 days before the first day of that period of training for work.

Regulation 9B explains the meaning of “training for work” and of a period of training for work.

- (8) Case G is where the person was entitled, on the preceding day, to the disability element of working tax credit or to disabled person’s tax credit by virtue of his having satisfied the requirements of Case A, B, E or F at some earlier time.

For the purposes of this Case a person is treated as having an entitlement to the disability element of working tax credit if that element is taken into account in determining the rate at which the person is entitled to a tax credit.

- (9) For the purposes of the Act, a person who satisfies paragraph (1)(b) is to be treated as having a physical or mental disability which puts him at a disadvantage in getting a job.

### **Initial claims**

- 9A.**—(1) In regulation 9(1)(b) an “initial claim” means a claim which—

- (a) is made for the disability element of working tax credit, and  
 (b) relates to a person who has not had an entitlement to that element or to disabled person’s tax credit during the two years immediately preceding the making of the claim.

- (2) In paragraph (1) any reference to the making of a claim includes the giving of notification, in accordance with regulation 20 of the Tax Credits (Claims and Notifications) Regulations 2002<sup>(22)</sup>, of a change of circumstances falling within that regulation.

- (3) For the purposes of paragraph (1)(b) a person is treated as having an entitlement to the disability element of working tax credit if, by virtue of the person being a person who satisfies regulation 9, that element is taken into account in determining the rate at which the person is entitled to a tax credit.

### **Training for work etc.**

- 9B.**—(1) In these Regulations “training for work” means training for work received—

- (a) in pursuance of arrangements made under—  
 (i) section 2(1) of the Employment and Training Act 1973<sup>(23)</sup>,  
 (ii) section 2(3) of the Enterprise and New Towns (Scotland) Act 1990<sup>(24)</sup>, or  
 (iii) section 1(1) of the Employment and Training Act 1950<sup>(25)</sup>, or

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<sup>(22)</sup> S.I. 2002/2014.

<sup>(23)</sup> 1973 c. 50. Section 2(1) was substituted by section 25(1) of the Employment Act 1988 (c. 19).

<sup>(24)</sup> 1990 c. 35.

<sup>(25)</sup> 1950 c. 29 (N.I.). Section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)).

(b) on a course whose primary purpose is the teaching of occupational or vocational skills, and which the person attends for 16 hours or more a week.

(2) For the purposes of regulation 9(7) a period of training for work means a series of consecutive days of training for work, there being disregarded any day specified in paragraph (3).

(3) Those days are any day on which the claimant was—

- (a) on holiday;
- (b) attending court as a justice of the peace, a party to any proceedings, a witness or a juror;
- (c) suffering from some disease or bodily or mental disablement as a result of which he was unable to attend training for work, or his attendance would have put at risk the health of other persons;
- (d) unable to participate in training for work because—
  - (i) he was looking after a child because the person who usually looked after that child was unable to do so;
  - (ii) he was looking after a member of his family who was ill;
  - (iii) he was required to deal with some domestic emergency; or
  - (iv) he was arranging or attending the funeral of his partner or a relative; or
- (e) authorised by the training provider to be absent from training for work.

(4) For the purposes of paragraph (3)(d)(iv) “relative” means close relative, grandparent, grandchild, uncle, aunt, nephew or niece; and in this paragraph “close relative” means parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple.”.

9. In regulation 10 (30-hour element) after paragraph (2) insert—

“(3) For the purposes of determining whether the condition in paragraph (2)(c) is met, the words “for not less than 16 hours per week” in paragraph (a) of the second condition in regulation 4(1) are omitted.”.

10. For regulation 11 (second adult element) substitute—

**“Second adult element**

**11.—**(1) The determination of the maximum rate must include the second adult element if the claim is a joint claim.

This is subject to the following provisions of this regulation.

(2) The determination of the maximum rate shall not include the second adult element if—

- (a) one of the claimants is aged 50 or over,
- (b) the 50 plus element is payable, and
- (c) neither of the claimants is engaged in qualifying remunerative work for at least 30 hours per week.

(3) But subsection (2) does not apply if at least one of the claimants—

- (a) is responsible for a child or a qualifying young person, or
- (b) satisfies regulation 9(1).

(4) The determination of the maximum rate shall also not include the second adult element if—

- (a) neither claimant has responsibility for a child or qualifying young person, and
- (b) one claimant is serving a custodial sentence of more than twelve months.”.

**11.** In regulation 12 (lone parent element) for the words from “one or more” to the end substitute “a child or qualifying young person”.

**12.—**(1) Amend regulation 13 (entitlement to child care element of working tax credit) as follows.

(2) In paragraph (1)(a) for “remunerative work” substitute “qualifying remunerative work”.

(3) For paragraph (1)(b) and the word “or” immediately preceding it substitute—

- “(b) is a member or are members of a married or unmarried couple where both are engaged in qualifying remunerative work; or
- (c) is a member or are members of a married or unmarried couple where one is engaged in qualifying remunerative work and the other—
  - (i) is incapacitated;
  - (ii) is an in-patient in hospital; or
  - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).”.

(4) For paragraphs (3) and (4) substitute—

“(3) A person is not engaged in qualifying remunerative work for the purposes of paragraph (1) if the person is treated as being in such work by virtue only of regulation 5, unless, immediately prior to the birth of the child, the person was responsible for another child

(4) For the purposes of paragraph (1)(c)(I) the other member of a couple is incapacitated in any of the circumstances specified in paragraphs (5) to (8).”.

(5) In paragraph (6)(a) after “benefit” insert “payable at the higher rate”.

(6) In paragraph (7) for “(b)” substitute “(c)”.

**13.—**(1) Amend regulation 14 as follows.

(2) At the beginning of paragraph (1) insert—

“Subject to paragraph (1A),”.

(3) After paragraph (1) insert—

“(1A) Child care charges do not include charges in respect of care provided by a relative of a child wholly or mainly in the child’s home.

(1B) For the purposes of this regulation—

- (a) “relative” means parent, grandparent, aunt, uncle, brother or sister whether by blood, half blood, marriage or affinity;
- (b) “the child’s home” means the home of the person, or in the case of a joint claim of either or both of the persons, responsible for the child.”.

(4) In paragraph (2)(d)—

- (a) for “in any part of the United Kingdom” substitute “anywhere outside the United Kingdom”; and
- (b) omit paragraph (ii).

(5) After paragraph (2)(d) insert—



“(e) in England—

- (i) wholly or mainly in the child’s home by a child care provider approved in accordance with the Tax Credits (Approval of Home Child Care Providers) Scheme 2003(26); or
- (ii) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002(27).”.

**14.**—(1) Amend regulation 15 (calculation of relevant child care charges) as follows.

(2) In paragraph (1)—

- (a) for “in the most recent four complete weeks” substitute “and rounding up the total to the nearest whole pound”; and
- (b) for “paragraph (2)” substitute “paragraphs (1A) and (2)”.

(3) After paragraph (1) insert—

“(1A) In any case in which the charges in respect of child care are paid weekly, the average weekly charge for the purposes of paragraph (1) is established—

- (a) where the charges are for a fixed weekly amount, by aggregating the average weekly charge paid for child care for each child in respect of whom charges are incurred in the most recent four complete weeks; or
- (b) where the charges are for variable weekly amounts, by aggregating the charges for the previous 52 weeks and dividing the total by 52.”.

**15.**—(1) Amend regulation 16 (change of circumstances) as follows.

(2) Omit paragraph (1)(a).

(3) In paragraph (1)(b) for “the relevant child care charges” substitute “during the period of an award, the weekly relevant child care charges, rounded up to the nearest whole pound”.

(4) For paragraph (2) substitute—

“For the purposes of paragraph (1), the weekly relevant child care charge—

- (a) where the child care charges are for a fixed weekly amount, is the aggregate of the weekly charge paid for child care for each child in respect of whom charges are incurred in each of the four consecutive weeks in which the change occurred; or
- (b) where the child care charges are for variable weekly amounts, is established by aggregating the anticipated weekly charge paid for child care for each child in respect of whom charges will be incurred for the following 52 weeks and dividing the total by 52.”.

(5) In paragraph (3)(b)—

- (a) after the second “the” insert “anticipated”; and
- (b) for “previous” substitute “next”.

**16.** In regulation 20 (maximum rates of elements of working tax credit), in paragraph (3), for “claimant’s family includes” (in both places where the words occur) substitute “claimant or, in the case of a joint claim, at least one of the claimants, is responsible for”.

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(26) S.I. 2003/463.

(27) S.I. 2002/3214.

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14<sup>th</sup> March 2003

*Jim Fitzpatrick*  
*John Heppell*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, made under powers conferred by the Tax Credits Act 2002 (c. 21) (“the Act”), amend the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I.2002/2005) (“the principal Regulations”).

Regulation 1 provides for citation and commencement; and regulation 2 provides for the principal Regulations to be amended.

Regulation 3 amends regulation 2 of the principal Regulations, which deals with interpretation. In addition to dealing with matters of a clerical and drafting nature, this regulation makes amendments to take account of the rewriting of the income tax legislation on employment income by the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

Regulation 4 makes minor amendments to regulation 4 of the principal Regulations, which deals with entitlement to the basic element of working tax credit. Section 11(2) of the Act provides that this element must be included in determining the maximum rate at which a person may be entitled to working tax credit.

Regulations 5 to 7 exercise powers conferred by section 10 of the Act, which provides that the entitlement of a claimant to working tax credit is dependent on the claimant being in qualifying remunerative work. Regulation 5 substitutes regulation 5 of the principal Regulations to deal in greater detail with time off in connection with maternity, paternity and adoption; and regulation 6 substitutes regulation 6 of the principal Regulations to deal in greater detail with periods of illness or incapacity for work. Regulation 7 inserts new regulations 7A, 7B and 7C into the principal Regulations to deal with strike periods, persons suspended from work and pay in lieu of notice.

Regulation 8 substitutes regulation 9 of the principal Regulations, which deals with entitlement to the disability element of working tax credit. Section 11(3) of the Act provides that this element must be included in determining the maximum rate at which a person may be entitled to working tax credit. The principal difference between the substituted regulation and its predecessor is that the link between entitlement to this element and the date of the making of the claim has been removed. The substituted regulation 9 contains references to an initial claim, to training for work and to a period of training for work; but, since the substituted regulation 9 is long, the opportunity has been taken to place this additional material in two new regulations. Regulation 9A accordingly deals with initial claims, and regulation 9B with training for work and with periods of training for work.

Section 11(5) of the Act provides that the maximum rate at which a person may be entitled to working tax credit may involve such other elements as may be prescribed; and regulation 3(1) of the principal Regulations prescribed a number of other elements, which were then dealt with in greater detail in regulations 10 to 18 of those Regulations. Regulations 9 and 11 of these Regulations make detailed amendments to the provisions relating to two of those elements: the 30-hour element and the lone parent element respectively. Regulation 10 substitutes regulation 11 of the principal Regulations, which is concerned with the second adult element, to deal with drafting matters and to make additional provision where one claimant is serving a custodial sentence of more than twelve months.

Regulations 12 to 16 exercise powers conferred by section 11 of the Act, which is concerned with the child care element of working tax credit.

Regulation 12 amends regulation 13 of the principal Regulations. Paragraphs (2) and (6) correct drafting errors; paragraph (3) extends entitlement to the childcare element to couples where one

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partner is in qualifying remunerative and the other is an in-patient in hospital or is in prison; paragraph (4) substitutes regulation 13(3) and (4) of the principal Regulations to deal with the wider ambit of regulation 5 of those Regulations and to deal with drafting changes; and paragraph (5) provides that a person is incapacitated for the purposes of what is now paragraph (1)(c)(i) of that regulation when in receipt of short term incapacity benefit payable at the higher rate under section 30A of the Social Security Contributions and Benefits Act 1992 (c. 4).

Regulation 13 amends regulation 14 of the principal Regulations as follows. First, charges in respect of care provided by a relative in the child's home are excluded from the description of child care charges. Secondly, a drafting error in paragraph (2)(d) is corrected. Thirdly, the definition of child care for the purposes of the child care element of the working tax credit is extended to include care provided in the child's home in accordance with the Tax Credits (Approval of Home Care Providers) Scheme 2003 (S.I. 2003/463) and care provided by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 (S.I. 2002/3214).

Regulations 14 and 15 amend regulations 15 and 16 of the principal Regulations to provide that child care charges are to be rounded up to the nearest whole pound and to amend the method of calculating the average weekly charge where charges are for variable weekly amounts. Regulation 15 also corrects drafting errors in paragraphs (1)(b) and (3)(b) of regulation 16 of the principal Regulations.

Regulation 16 corrects a drafting error in regulation 20(3) of the principal Regulations.