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STATUTORY INSTRUMENTS

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**2002 No. 2005**

**The Working Tax Credit (Entitlement  
and Maximum Rate) Regulations 2002**

**PART 2**

**CONDITIONS OF ENTITLEMENT**

*Basic element*

**Entitlement to basic element of Working Tax Credit: qualifying remunerative work**

4.—(1) Subject to the qualification in paragraph (2), a person shall be treated as engaged in qualifying remunerative work if, and only if, he satisfies all of the following conditions.

***First condition***

The person—

- (a) is working at the date of the claim; or
- (b) has an offer of work which he has accepted at the date of the claim and the work is expected to commence within 7 days of the making of the claim.

In relation to a case falling within sub-paragraph (b) of this condition, references in the second third and fourth conditions below to work which the person undertakes are to be construed as references to the work which the person will undertake when it commences.

In such a case the person is only to be treated as being in qualifying remunerative work when he begins the work referred to in that sub-paragraph.

***Second condition***

The person—

- (a) [F<sup>1</sup>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),]
- (b) satisfies the conditions in regulation 18, or
- (c) is aged at least 25 and undertakes not less than 30 hours work per week in any other case.

***Third condition***

The work which the person undertakes is expected to continue for at least 4 weeks after the making of the claim or, in a case falling within sub-paragraph (b) of the first condition, after the work starts.

***Fourth condition***

The work is done for payment or in expectation of payment.

*Status: Point in time view as at 26/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, PART 2. (See end of Document for details)*

Paragraphs (3) and (4) provide the method of determining the number of hours of qualifying remunerative work that a person undertakes.

Regulations 5 to 8 apply in relation to periods of absence from work connected with childbirth or adoption, sickness, seasonal absence from work in relation to which there is a recognised yearly cycle of employment and those who have a gap between periods of work.

Regulation 9 prescribes the conditions which must be satisfied by, or exist in relation to, a person so that he is to be treated as having a physical or mental disability which puts him at a disadvantage in getting a job.

(2) A person who would otherwise satisfy the conditions in paragraph (1) shall not be regarded as engaged in qualifying remunerative work to the extent that he is—

- (a) engaged by a charitable or voluntary organisation, or is a volunteer, if the only payment received by him or due to be paid to him is a payment by way of expenses which falls to be disregarded under item 1 in Table 7 in regulation 19 of the Tax Credits (Definition and Calculation of Income) Regulations 2002;
- (b) engaged in caring for a person who is not a member of his household but is temporarily residing with him if the only payment made to him for providing that care is disregarded income by virtue of item 3 or 4 in Table 8 in regulation 19 of the Tax Credits (Definition and Calculation of Income) Regulations 2002;
- (c) engaged on a scheme for which a training allowance is being paid;
- (d) participating in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of the Jobseeker's Allowance Regulations 1996<sup>M1</sup> or the Preparation for Employment Programme specified in regulation 75(1)(a)(v) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996<sup>M2</sup>;
- (e) engaged in an activity in respect of which—
  - (i) a sports award has been made, or is to be made, to him, and
  - (ii) no other payment is made, or is expected to be made, to him; or
- (f) participating in an employment zone programme, that is to say a programme established for one or more areas designated pursuant to section 60 of the Welfare Reform and Pensions Act 1999<sup>M3</sup>, and subject to the Employment Zones Regulations 2000<sup>M4</sup> if he receives no payments under that programme other than—
  - (i) discretionary payments disregarded in the calculation of a claimant's income under item 6(b) in [F2Table 6] in regulation 19 of the Tax Credits (Definition and Calculation of Income) Regulations 2002; or
  - (ii) training premiums.

(3) The number of hours for which a person undertakes qualifying remunerative work is—

- (a) in the case of an apprentice, employee or office-holder the number of hours of such work which he normally performs—
  - (i) under the contract of service or of apprenticeship under which he is employed; or
  - (ii) in the office in which he is employed;
- (b) in the case of an agency worker, the number of hours in respect of which remuneration is normally paid to him by an employment agency with whom he has a contract of employment; or
- (c) in the case of a person who is self-employed, the number of hours he normally performs for payment or in expectation of payment.

This is subject to the following qualification.

(4) In reckoning the number of hours of qualifying remunerative work which a person normally undertakes—

- (a) any period of customary or paid holiday, and
- (b) any time allowed for meals or refreshment, unless the person is, or expects to be paid earnings in respect of that time,

shall be disregarded.

[<sup>F3</sup>(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.]

#### Textual Amendments

- F1** Words in reg. 4(1) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **4(2)**
- F2** Words in reg. 4(2)(f)(i) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **4(3)**
- F3** Reg. 4(5) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **4(4)**

#### Marginal Citations

- M1** [S.I. 1996/207](#). Regulation 75 was substituted by [S.I. 1997/2863](#) and relevant amendments were made by [S.I. 2000/721](#) and 1978 and 2001/1029.
- M2** S.R. [1996 No. 198](#). Regulation 75 was substituted by regulation 8 of S.R. [1997 No. 541](#) and paragraph (1)(a)(v) inserted by regulation 5(a) of S.R. [2001 No. 151](#).
- M3** [1999 c.30](#).
- M4** [S.I. 2000/721](#). Relevant amendments were made by [S.I. 2000/1279](#) and 1305 and 2001/261 and 1865.

#### [<sup>F4</sup>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 or Article 103 of the Employment Rights (Northern Ireland) Order 1996,
- (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 or Article 112A of the Employment Rights (Northern Ireland) Order 1996,
- (f) is paid statutory adoption pay, or
- (g) is absent from work during an ordinary adoption leave period under section 75A of the Employment Rights Act 1996 or Article 107A of the Employment Rights (Northern Ireland) Order 1996.

(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).

*Status: Point in time view as at 26/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, PART 2. (See end of Document for details)*

(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.]

#### Textual Amendments

**F4** Reg. 5 substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, 5

#### [<sup>F5</sup>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,
- (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, or
- (d) receives national insurance credits on the grounds of incapacity for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(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.]

#### Textual Amendments

**F5** Reg. 6 substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, 6

#### Term time and other seasonal workers

7.—(1) For the purposes of the conditions in regulation 4(1), paragraph (2) applies if a person—

- (a) works at a school, other educational establishment or other place of employment,

- (b) there is a recognisable cycle to his employment there; and
  - (c) the length of that recognisable cycle is one year and includes periods of school holidays or similar vacations during which he does not work.
- (2) If this paragraph applies, the periods mentioned in paragraph (1)(c) are disregarded in determining whether the conditions in regulation 4(1) are satisfied.

#### [<sup>F6</sup>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.]

#### Textual Amendments

**F6** Regs. 7A-7C inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, 7

#### [<sup>F6</sup>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.]

#### Textual Amendments

**F6** Regs. 7A-7C inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, 7

#### [<sup>F6</sup>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.]

*Status: Point in time view as at 26/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, PART 2. (See end of Document for details)*

### Textual Amendments

**F6** Regs. 7A-7C inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, 7

### Gaps between jobs

8. For the purposes of the conditions in regulation 4(1) a person shall be treated as being engaged in qualifying remunerative work for the requisite number of hours if he has been so engaged within the past 7 days.

### *Disability element*

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

[<sup>F7</sup>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 for at least one day in the preceding 182 days.

(3) Case B is where, for at least one day in the preceding 182 days, the person has been a person [<sup>F8</sup>for whom at least one of the following benefits has been payable and for whom the applicable amount] included a higher pensioner or disability premium [<sup>F9</sup>in respect of him] determined—

- (a) in the case of income support, in accordance with [<sup>F10</sup>paragraphs 10(1)(b) or (2)(b) or 11, and where applicable, 12,] of Part III of Schedule 2 to the Income Support (General) Regulations 1987;
- (b) in the case of income-based jobseeker's allowance, in accordance with [<sup>F11</sup>paragraphs 12(1)(a), or (b)(ii), or (c), or 13, and where applicable 14 of Part 3 of] Schedule 1 to the Jobseeker's Allowance Regulations 1996;
- (c) in the case of housing benefit, in accordance with [<sup>F12</sup>paragraphs 10(1)(b) or (2)(b) or 11, and where applicable, 12] of Part III of Schedule 2 to the Housing Benefit (General) Regulations 1987;
- (d) in the case of council tax benefit, in accordance with [<sup>F13</sup>paragraphs 11(1)(b) or (2)(b) or 12, and where applicable, 13] of Part III of Schedule 1 to the Council Tax Benefit (General) Regulations 1992.

For the purposes of this Case “the applicable amount” has the meaning given by section 135 of the Contributions and Benefits Act.

(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,
  - (b) section 46 of the National Health Service (Scotland) Act 1978, or
  - (c) Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- (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
  - (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, [<sup>F14</sup>for at least one day in the preceding 56 days], 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.]

#### Textual Amendments

- F7** Regs. 9-9B substituted for reg. 9 (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **8**
- F8** Words in [reg. 9\(3\)](#) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **14(2)(i)**
- F9** Words in [reg. 9\(3\)](#) inserted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **14(2)(ii)**
- F10** Words in [reg. 9\(3\)\(a\)](#) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **14(2)(iii)**
- F11** Words in [reg. 9\(3\)\(b\)](#) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **14(2)(iv)**

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- F12** Words in reg. 9(3)(c) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **14(2)(v)**
- F13** Words in reg. 9(3)(d) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **14(2)(vi)**
- F14** Words in reg. 9(8) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **14(3)**

### [<sup>F7</sup>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, 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.]

### Textual Amendments

- F7** Regs. 9-9B substituted for reg. 9 (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **8**

### [<sup>F7</sup>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,
  - (ii) section 2(3) of the Enterprise and New Towns (Scotland) Act 1990, or
  - (iii) section 1(1) of the Employment and Training Act 1950, or
- (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.]

#### Textual Amendments

**F7** Regs. 9-9B substituted for reg. 9 (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **8**

#### *30 hour element*

#### **30 hour element**

**10.**—(1) The determination of the maximum rate must include a 30 hour element if the claimant, or in the case of a joint claim, at least one of the claimants, is engaged in qualifying remunerative work for at least 30 hours per week.

- (2) The determination of the maximum rate must also include the 30 hour element if—
- (a) the claim is a joint claim,
  - (b) at least one of the claimants is responsible for one or more children or qualifying young people,
  - (c) the aggregate number of hours for which the couple engage in qualifying remunerative work is at least 30 hours per week, and
  - (d) at least one member of the couple engages in qualifying remunerative work for at least 16 hours per week.

[<sup>F15</sup>(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.]

#### Textual Amendments

**F15** Reg. 10(3) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **9**

#### *Second adult element*

#### **Second adult element**

[<sup>F16</sup>**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.

*Status: Point in time view as at 26/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, PART 2. (See end of Document for details)*

- (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.]

#### Textual Amendments

**F16** Reg. 11 substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **10**

#### *Lone parent element*

#### **Lone parent element**

- 12.** The determination of the maximum rate must include the lone parent element if—
- (a) the claim is a single claim; and
  - (b) the claimant is responsible for [<sup>F17</sup>a child or qualifying young person].

#### Textual Amendments

**F17** Words in reg. 12 substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **11**

#### *Child care element*

#### **Entitlement to child care element of working tax credit**

**13.—**(1) The determination of the maximum rate must include a child care element where that person, or in the case of a joint claim at least one of those persons, is incurring relevant child care charges and—

- (a) is a person, not being a member of a married or unmarried couple, engaged in [<sup>F18</sup>qualifying remunerative work];
- [<sup>F19</sup>(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).]

(2) For the purposes of paragraph (1) a person is not treated as incurring relevant child care charges where the average weekly charge calculated in accordance with regulation 15 is nil or where an agreement within regulation 15(4) has not yet commenced.

[<sup>F20</sup>(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]

[<sup>F20</sup>(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) The circumstances specified in this paragraph are where either council tax benefit or housing benefit is payable under Part 7 of the Contributions and Benefits Act to the other member or his partner and the applicable amount of the person entitled to the benefit includes—

- (a) a disability premium; or
- (b) a higher pensioner premium by virtue of the satisfaction of—
  - (i) in the case of council tax benefit, paragraph 11(2)(b) of Schedule 1 to the Council Tax Benefit (General) Regulations 1992 <sup>M5</sup>;
  - (ii) in the case of housing benefit, paragraph 10(2)(b) of Schedule 2 to the Housing Benefit (General) Regulations 1987 <sup>M6</sup>,

on account of the other member's incapacity or either regulation 13A(1)(c) of Council Tax Benefit (General) Regulations 1992 (treatment of child care charges) <sup>M7</sup> or, as the case may be, regulation 21A(1)(c) of the Housing Benefit (General) Regulations 1987 (treatment of child care charges) <sup>M8</sup> applies in that person's case;

(6) The circumstances specified in this paragraph are where there is payable in respect of him one or more of the following pensions or allowances—

- (a) short-term incapacity benefit [<sup>F21</sup>payable at the higher rate] under section 30A of the Contributions and Benefits Act <sup>M9</sup>;
- (b) long term incapacity benefit under section 40 or 41 of the Contributions and Benefits Act <sup>M10</sup>;
- (c) attendance allowance under section 64 of that Act;
- (d) severe disablement allowance under section 68 of that Act;
- (e) disability living allowance under section 71 of that Act;
- (f) increase of disablement pension under section 104 of that Act;
- (g) a pension increase under a war pension scheme or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (b), (d) or (e) above.

(7) The circumstances specified in this paragraph are where a pension or allowance to which sub-paragraph [<sup>F22</sup>(c)], (d), (e) or (f) of paragraph (6) refers, was payable on account of his incapacity but has ceased to be payable only in consequence of his becoming a patient.

(8) The circumstances specified in this paragraph are where he has an invalid carriage or other vehicle provided to him under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 <sup>M11</sup>, section 46 of the National Health Service (Scotland) Act 1978 <sup>M12</sup>, or Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 <sup>M13</sup>.

*Status: Point in time view as at 26/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, PART 2. (See end of Document for details)*

### Textual Amendments

- F18** Words in reg. 13(1)(a) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **12(2)**
- F19** Reg. 13(1)(b)(c) substituted for reg. 13(1)(b) and word (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **12(3)**
- F20** Reg. 13(3)(4) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **12(4)**
- F21** Words in reg. 13(6)(a) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **12(5)**
- F22** Word in reg. 13(7) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **12(6)**

### Marginal Citations

- M5** [S.I. 1992/1814](#).
- M6** [S.I. 1987/1971](#).
- M7** Regulation 46A was inserted by regulation 2 of [S.I. 1994/1924](#).
- M8** Regulation 21A was inserted by regulation 5 of [S.I. 1994/1924](#).
- M9** Section 30A was inserted by section 1(1) of the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#) and amended by section 64 of the [Welfare Reform and Pensions Act 1999 \(c.30\)](#).
- M10** Sections 40 and 41 were substituted by paragraphs 8 and 9 respectively of Schedule 1 to the [Social Security \(Incapacity for Work\) Act 1994](#). Section 41(5) was further amended by paragraph 21(4) of Schedule 4 to the [Pensions Act 1995](#).
- M11** [1977 c.49](#).
- M12** [1978 c.29](#).
- M13** [S.I. 1972/1265 \(N.I. 14\)](#).

14.—(1) [<sup>F23</sup>Subject to paragraph (1A),] for the purposes of section 12 of the Act charges incurred for child care are charges paid by the person, or in the case of a joint claim, by either or both of the persons, for child care provided for any child for whom the person, or at least one of the persons, is responsible.

In these Regulations, such charges are called “relevant child care charges”.

[<sup>F24</sup>(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.]

[<sup>F24</sup>(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.]
- (2) “Child care” means care provided for a child—
- (a) in England and Wales—
    - (i) by persons registered under Part 10A of the Children Act 1989 <sup>M14</sup>;
    - (ii) in schools or establishments which are exempted from registration under Part 10A of the Children Act 1989 by virtue of paragraph 1 or 2 of Schedule 9A <sup>M15</sup> to that Act;
    - (iii) in respect of any period between his eighth birthday [<sup>F25</sup>and the last day he is treated as a child for the purposes of this regulation,] where the care is provided out of school hours, by a school on school premises or by a local authority; or

- (iv) by a child care provider approved by an accredited organisation within the meaning given by regulation 4 of the Tax Credit (New Category of Child Care Provider) Regulations 1999 <sup>M16</sup>;
- (b) in Scotland—
  - (i) by a person in circumstances where the care service provided by him consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001 <sup>M17</sup> and is registered under Part 1 of that Act; or
  - (ii) by a local authority in circumstances where the care service provided by the local authority consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001 and is registered under Part 2 of that Act;
- (c) in Northern Ireland—
  - (i) by persons registered under Part XI of the Children (Northern Ireland) Order 1995 <sup>M18</sup>; or
  - (ii) by institutions and establishments exempt from registration under that Part by virtue of Article 121 of that Order; or
- (d) [<sup>F26</sup>anywhere outside the United Kingdom]—
  - (i) by a child care provider approved by an accredited organisation within the meaning given by regulation 4 of the Tax Credit (New Category of Child Care Provider) Regulations 2002 <sup>M19</sup>; or
  - <sup>F27</sup>(ii) .....
- <sup>F28</sup>(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; or
  - (ii) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002.]
- (3) For the purposes of this regulation a person is a child until the last day of the week in which falls the 1st September following that child’s fifteenth birthday (or sixteenth birthday if the child is disabled).
- (4) For the purposes of paragraph (3) a child is disabled where—
  - (a) a disability living allowance is payable in respect of that child, or has ceased to be payable solely because he is a patient;
  - (b) the child is registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 <sup>M20</sup> (welfare services) or, in Scotland, has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a local authority in Scotland, or, in Northern Ireland has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a Health and Social Services Board; or
  - (c) the child ceased to be registered as blind in such a register within the 28 weeks immediately preceding the date of claim.
- (5) Charges paid in respect of the child’s compulsory education or charges paid by a person to a partner or by a partner to the person in respect of any child for whom either or any of them is responsible are not relevant child care charges.
- (6) Where regulation 15(4) (agreement for the provision of future child care) applies—
  - (a) the words “charges paid” in paragraph (1) include charges which will be incurred, and

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(b) the words “child care provided” in paragraph (1) include care which will be provided.

(7) Where regulation 13(3) applies, the reference in paragraph (1) to a child for whom the person, or at least one of the persons, is responsible does not include any child born or child adopted or surrogate child acquired during a period of absence from employment in connection with childbirth or adoption within regulation 5.

(8) Relevant child care charges are calculated on a weekly basis in accordance with regulation 15.

#### Textual Amendments

- F23** Words in reg. 14(1) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **13(2)**
- F24** Reg. 14(1A)(1B) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **13(3)**
- F25** Words in reg. 14(2)(a)(iii) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **15**
- F26** Words in reg. 14(2)(d) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **13(4)(a)**
- F27** Reg. 14(2)(d)(ii) omitted (6.4.2003) by virtue of [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **13(4)(b)**
- F28** Reg. 14(2)(e) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **13(5)**

#### Modifications etc. (not altering text)

- C1** Reg. 14 applied (for specified purposes and with effect in accordance with reg. 1 of the amending S.I., in force in so far as not already in force and with effect in accordance with reg. 1 of the amending S.I.) by [The Tax Credits \(Definition and Calculation of Income\) Regulations 2002 \(S.I. 2002/2006\)](#), regs. 1, **4(4)** Table 1 Item 15
- C2** Reg. 14 applied (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Notifications\) Regulations 2002 \(S.I. 2002/2014\)](#), regs. 1(1), **31(4)**

#### Marginal Citations

- M14** Part 10A of the Children Act 1989 was inserted by section 79 of the [Care Standards Act 2000 \(c.14\)](#).
- M15** Schedule 9A to the [Children Act 1989 \(c.41\)](#) was inserted by Schedule 3 to the Care Standards Act 2000.
- M16** S.I. 1999/3110.
- M17** 2001 asp 8.
- M18** S.I. 1995/755 (N.I. 2).
- M19** S.I. 2002/1417.
- M20** 1948 c.29; section 29 was amended by the [National Assistance \(Amendment\) Act 1959 \(c.30\)](#), **section 1(2)**; the [Mental Health \(Scotland\) Act 1960 \(c.61\)](#), **sections 113(1)** and 114 of and Schedule 4 to the [Social Work \(Scotland\) Act 1968 \(c.49\)](#), **section 95(2)** and Schedule 9 Part 1; the [Local Government Act 1972 \(c.70\)](#), sections 195(6), 272(1), **Schedule 23 paragraph 2** and Schedule 30; the [Employment and Training Act 1973 \(c.50\)](#), **section 14(1)** and Schedule 3 paragraph 3; the [National Health Service Act 1977 \(c.49\)](#), **section 129** and Schedule 15 paragraph 6; the [Health and Social Services and Social Security Adjudications Act 1983 \(c.41\)](#), **section 30** and Schedule 10 Part I; the [Children Act 1989 \(c.41\)](#) section 108(5) and Schedule 13 paragraph 11(2); and the [National Health Service and Community Care Act 1990 \(c.19\)](#), **section 44(7)**.

**Calculation of relevant child care charges**

15.—(1) Relevant child care charges are calculated by aggregating the average weekly charge paid for child care for each child in respect of whom charges are incurred [<sup>F29</sup>and rounding up the total to the nearest whole pound].

This is subject to [<sup>F30</sup>paragraphs (1A) and (2)].

[<sup>F31</sup>(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.]

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

- (a) where the charges are for a fixed monthly amount, by multiplying that amount by 12 and dividing the product by 52; or
- (b) where the charges are for variable monthly amounts, by aggregating the charges for the previous 12 months and dividing the total by 52.

(3) In a case where there is insufficient information for establishing the average weekly charge paid for child care in accordance with paragraphs (1) and (2), an officer of the Board shall estimate the charge—

- (a) in accordance with information provided by the person or persons incurring the charges; and
- (b) by any method which in the officer’s opinion is reasonable.

(4) If a person—

- (a) has entered into an agreement for the provision of child care; and
- (b) will incur under that agreement relevant child care charges in respect of child care during the period of the award,

the average weekly charge for child care is based upon a written estimate of the future weekly charges provided by that person.

**Textual Amendments**

**F29** Words in reg. 15(1) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **14(2)(a)**

**F30** Words in reg. 15(1) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **14(2)(b)**

**F31** Reg. 15(1A) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **14(3)**

**Change of circumstances**

16.—(1) There is a relevant change in circumstances if—

<sup>F32</sup>(a) .....

- (b) [<sup>F33</sup>during the period of an award, the weekly relevant child care charges, rounded up to the nearest whole pound]—

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- (i) exceed the average weekly charge calculated in accordance with regulation 15 by £10 a week or more;
- (ii) are less than the average weekly charge calculated in accordance with regulation 15 by £10 a week or more; or
- (iii) are nil.

If there is a relevant change in circumstances, the amount of the child care element of working tax credit shall be recalculated with effect from the specified date.

[<sup>F34</sup>(2) 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.]

(3) If in any case the charges in respect of child care are paid monthly, the weekly relevant child care charge for the purposes of paragraph (1) is established—

- (a) where the charges are for a fixed monthly amount, by multiplying that amount by 12 and dividing the product by 52; or
- (b) where the charges are for variable monthly amounts, by aggregating the [<sup>F35</sup>anticipated] charges for the [<sup>F36</sup>next] 12 months and dividing the total by 52.

(4) In a case where there is insufficient information for establishing the weekly relevant child care charge paid for child care in accordance with paragraphs (2) and (3), an officer of the Board shall estimate the charge—

- (a) in accordance with information provided by the person or persons incurring the charges; and
- (b) by any method which in the officer's opinion is reasonable.

(5) For the purpose of paragraph (1) the specified date is—

- (a) where the child care charges are increased, the later of—
  - (i) the first day of the week in which the change occurred, and
  - (ii) the first day of the week in which falls the day which is three months prior to the date notification of the change is given;
- (b) where the child care charges are decreased, the first day of the week following the four consecutive weeks in which the change occurred.

#### Textual Amendments

- F32** Reg. 16(1)(a) omitted (6.4.2003) by virtue of [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **15(2)**
- F33** Words in reg. 16(1)(b) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **15(3)**
- F34** Reg. 16(2) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **15(4)**
- F35** Word in reg. 16(3)(b) inserted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **15(5)(a)**
- F36** Word in reg. 16(3)(b) substituted (6.4.2003) by [The Working Tax Credit \(Entitlement and Maximum Rate\) \(Amendment\) Regulations 2003 \(S.I. 2003/701\)](#), regs. 1, **15(5)(b)**



### *Severe disability element*

#### **Severe disability element**

17.—(1) The determination of the maximum rate must include the severe disability element if the claimant, or, in the case of a joint claim, one of the claimants satisfies paragraph (2).

(2) A person satisfies this paragraph if a disability living allowance, attributable to the care component payable at the highest rate prescribed under section 72(3) of the Contributions and Benefits Act or an attendance allowance at the higher rate prescribed under section 65(3) of that Act—

- (a) is payable in respect of him; or
- (b) would be so payable but for a suspension of benefit by virtue of regulations under section 113(2) of the Contributions and Benefits Act (suspension during hospitalisation), or an abatement as a consequence of hospitalisation.

### *50 plus element*

#### **50 plus element**

18.—(1) The determination of the maximum rate must include the 50 plus element if—

- (a) in the case of a single claim, the claimant satisfies paragraph (3), or
- (b) in the case of a joint claim, at least one of the claimants satisfies that paragraph.

This is subject to the qualification in paragraph (2).

(2) The 50 plus element shall not be payable in respect of a claimant—

- (a) for a continuous period of longer than 12 months; or
- (b) for periods amounting in aggregate to more than 12 months if the gap between any consecutive pair of those periods is not more than 26 weeks.

(3) A claimant satisfies this paragraph if—

- [<sup>F37</sup>(a) he is aged at least 50; and
- (b) he starts qualifying remunerative work; and]
- (c) he undertakes qualifying remunerative work for at least 16 hours per week; and
- (d) he satisfies the condition in paragraph (4), (6), (7), (8) or (9).

(4) The condition is that—

- (a) for a period of at least six months immediately before his starting [<sup>F38</sup>qualifying remunerative] work as mentioned in paragraph (3)(b), or
- (b) for consecutive periods, amounting in the aggregate to at least six months, the last of which ends immediately before his starting [<sup>F39</sup>qualifying remunerative] work as mentioned in paragraph (3)(b),

paragraph (5) is satisfied.

(5) This paragraph is satisfied while the claimant is receiving—

- (a) income support;
- (b) a jobseeker's allowance;
- (c) incapacity benefit;
- (d) severe disablement allowance; or

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- (e) both a state retirement pension and the minimum income guarantee under the Income Support (General) Regulations 1987.
- (6) The condition is that for at least six months immediately prior to his starting [<sup>F40</sup>qualifying remunerative] work—
- (a) another person was receiving—
- (i) the payment mentioned in subparagraphs (a) to (d) of paragraph (5); or
- (ii) both the payments mentioned in paragraph (5)(e); and
- (b) an increase in respect of the claimant, as a dependant of the other person—
- (i) in a case falling within subparagraph (a)(i) was payable with that payment; or
- (ii) in a case falling within subparagraph (a)(ii) was payable with that pension.
- (7) The condition is that for at least six months immediately prior to his starting [<sup>F41</sup>qualifying remunerative] work as mentioned in paragraph (3)(b) he satisfied the conditions entitling him to be credited with contributions or earnings in accordance with the Social Security (Credits) Regulations 1975 <sup>M21</sup>.
- (8) The condition is that—
- (a) the condition in paragraph (4)(a), (6) or (7) would have been satisfied if the reference to six months were omitted;
- (b) immediately prior to the period during which that condition, as modified by subparagraph (a), is satisfied there is a period during which the condition in paragraph (9) is satisfied; and
- (c) the total of the periods during which—
- (i) the condition in paragraph (4)(a), (6) or (7), as modified by subparagraph (a), is satisfied; and
- (ii) the condition in paragraph (9) is satisfied, equals or exceeds six months.
- (9) The condition is that the claimant, or, in the case of a joint claim, one of the claimants, is receiving—
- (a) [<sup>F42</sup>carer's] allowance;
- (b) bereavement allowance; or
- (c) widowed parent's allowance.

#### Textual Amendments

- F37** Reg. 18(3)(a)(b) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **16(2)**
- F38** Words in reg. 18(4)(a) added (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **16(3)**
- F39** Words in reg. 18(4)(b) added (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **16(3)**
- F40** Words in reg. 18(6) added (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **16(3)**
- F41** Words in reg. 18(7) added (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **16(3)**
- F42** Word in reg. 18(9)(a) substituted (26.11.2003) by [The Tax Credits \(Miscellaneous Amendments No.2\) Regulations 2003 \(S.I. 2003/2815\)](#), regs. 1, **16(4)**

**Marginal Citations**

**M21** S.I. 1975/556, amended by S.I. 1976/409, S.I. 1983/463, S.I. 1978/409, S.I. 1982/96, S.I. 1987/414, S.I. 1988/516, 1230, 1439 and 1545, S.I. 1989/1627, S.I. 1991/387 and 2772, S.I. 1994/1837, S.I. 1995/829, S.I. 1996/2367, S.I. 1999/2566, S.I. 2000/1483 and 3120 and S.I. 2001/518.

*Death of a child or qualifying young person for whom the claimant is responsible*

**Entitlement after death of a child or qualifying young person for whom the claimant is responsible**

**19.**—(1) Paragraph (2) applies if—

- (a) the death occurs of a child or qualifying young person,
- (b) working tax credit is payable to a person who was, or to a couple at least one of whom was, immediately before the death responsible for that child or qualifying young person;
- (c) the prescribed conditions for an element of working tax credit were satisfied because the claimant, or at least one of the claimants, was responsible for that child or qualifying person, but would not have been satisfied but for that responsibility; and
- (d) the prescribed conditions would have continued to be satisfied but for the death.

(2) If this paragraph applies, working tax credit shall continue to be payable, as if the child or qualifying young person had not died, for the period for which child tax credit continues to be payable in accordance with regulation 6 of the Child Tax Credit Regulations 2002 <sup>M22</sup>.

**Marginal Citations**

**M22** S.I. 2002/2007.

**Status:**

Point in time view as at 26/11/2003.

**Changes to legislation:**

There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, PART 2.