
STATUTORY INSTRUMENTS

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) [F¹is 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Status: Point in time view as at 06/04/2003.

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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^{M1} or the Preparation for Employment Programme specified in regulation 75(1)(a)(v) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996^{M2};
- (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^{M3}, and subject to the Employment Zones Regulations 2000^{M4} 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.

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(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.

[^{F3}(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.

[^{F4}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).

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(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

[^{F5}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.

[^{F6}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

[^{F6}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

[^{F6}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.]

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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.

Status:

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