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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**

*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 <sup>F1</sup>... couple, engaged in [<sup>F2</sup>qualifying remunerative work];
- [<sup>F3</sup>(b) is a member or are members of a <sup>F1</sup>... couple where both are engaged in qualifying remunerative work; or
- (c) is a member or are members of a <sup>F1</sup>... 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>F4</sup>(3) .....

[<sup>F5</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, [<sup>F6</sup>paragraph 11(2)(b) of Schedule 1 to the Council Tax Benefit (General) Regulations 1992 ]<sup>M1</sup>[<sup>F6</sup>paragraph 11(2)(b) of Schedule 1 to the Council Tax Benefit Regulations 2006];

*Status: Point in time view as at 06/04/2011. This version of this provision has been superseded.*  
*Changes to legislation: There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, Section 13. (See end of Document for details)*

(ii) in the case of housing benefit, [<sup>F7</sup>paragraph 10(2)(b) of Schedule 2 to the Housing Benefit (General) Regulations 1987 ]<sup>M2</sup>[<sup>F7</sup>11(2)(b) of Schedule 3 to the Housing Benefit Regulations 2006],

on account of the other member's incapacity or either [<sup>F8</sup>regulation 13A(1)(c) of Council Tax Benefit (General) Regulations 1992][<sup>F8</sup>regulation 18(1)(c) of the Council Tax Benefit Regulations 2006] (treatment of child care charges) <sup>M3</sup> or, as the case may be, [<sup>F9</sup>regulation 21A(1)(c) of the Housing Benefit (General) Regulations 1987][<sup>F9</sup>regulation 28(1)(c) of the Housing Benefit Regulations 2006] (treatment of child care charges) <sup>M4</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>F10</sup>payable at the higher rate] under section 30A of the Contributions and Benefits Act <sup>M5</sup>;
- (b) long term incapacity benefit under section 40 or 41 of the Contributions and Benefits Act <sup>M6</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.
- [<sup>F11</sup>(h) contributory employment and support allowance where entitlement to that allowance or statutory sick pay has existed for a period of 28 weeks comprising one continuous period or two or more periods which are linked together provided that, if the person received statutory sick pay, the person satisfied the first and second contribution conditions set out in paragraphs 1 and 2 of Schedule 1 to the Welfare Reform Act.]

(7) The circumstances specified in this paragraph are where a pension or allowance to which sub-paragraph [<sup>F12</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>M7</sup>, section 46 of the National Health Service (Scotland) Act 1978 <sup>M8</sup>; or Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 <sup>M9</sup>.

#### Textual Amendments

- F1** Words in reg. 13(1) omitted (5.12.2005) by virtue of [The Civil Partnership Act 2004 \(Tax Credits, etc.\) \(Consequential Amendments\) Order 2005 \(S.I. 2005/2919\)](#), arts. 1, **2(3)**
- F2** 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)**
- F3** 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)**
- F4** Reg. 13(3) omitted (6.4.2004) by virtue of [The Tax Credits \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/762\)](#), regs. 1(1), **9**

- F5** 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)**
- F6** Words in reg. 13(5)(b)(i) substituted (E.W.S.) (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 22(3)(a)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F7** Words in reg. 13(5)(b)(ii) substituted (E.W.S.) (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 22(3)(b)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F8** Words in reg. 13(5) substituted (E.W.S.) (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 22(3)(c)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F9** Words in reg. 13(5) substituted (E.W.S.) (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 22(3)(d)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F10** 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)**
- F11** Reg. 13(6)(h) added (E.W.S.) (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 3) Regulations 2008 (S.I. 2008/1879), regs. 1(1), **20(5)**
- F12** 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**

- M1** S.I. 1992/1814.
- M2** S.I. 1987/1971.
- M3** Regulation 46A was inserted by regulation 2 of S.I. 1994/1924.
- M4** Regulation 21A was inserted by regulation 5 of S.I. 1994/1924.
- M5** 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).
- M6** 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.
- M7** 1977 c.49.
- M8** 1978 c.29.
- M9** S.I. 1972/1265 (N.I. 14).

**Status:**

Point in time view as at 06/04/2011. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, Section 13.