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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) is aged at least 16 and undertakes work for not less than 16 hours per week if—
  - (i) there is a child or qualifying young person for whom he or his partner is responsible, or
  - (ii) he has a physical or mental disability which puts him at a disadvantage in getting a job,
- (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.

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(1) or the Preparation for Employment Programme specified in regulation 75(1)(a)(v) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(2);
- (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(3), and subject to the Employment Zones Regulations 2000(4) 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 Table 8 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;

(1) 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.

(2) 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.

(3) 1999 c. 30.

(4) S.I. 2000/721. Relevant amendments were made by S.I. 2000/1279 and 1305 and 2001/261 and 1865.

- (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.