

**2002 No. 2402**

**SOCIAL SECURITY**

**The Income-related Benefits and Jobseeker's Allowance  
(Working Tax Credit and Child Tax Credit) (Amendment)  
Regulations 2002**

*Made - - - - - 19th September 2002*

*Laid before Parliament 27th September 2002*

*Coming into force in accordance with regulations 1 (2) to  
(6)*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(a), (d) and (e), 135(1), 136(3), (4) and (5)(a) and (b), 137(1)(a) and (2)(m) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(b) and sections 12(2), (3) and (4)(b), 35(1), 36(2) and (4) of, and paragraph 13 of Schedule 1 to, the Jobseekers Act 1995(c) and of all other powers enabling him in that behalf, after consultation in respect of these Regulations relating to housing benefit and council tax benefit with organisations appearing to him to be representative of the authorities concerned(d) by this Instrument, which contains only regulations which are consequential upon sections 1(1) and (3)(d) and 60 of, and Schedule 6 to the Tax Credits Act 2002(e) and which is made before the end of the period of six months beginning with the coming into force of those provisions of that Act(f), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Income-related Benefits and Jobseeker's Allowance (Working Tax Credit and Child Tax Credit) (Amendment) Regulations 2002.

(2) This regulation, regulation 2 and Schedule 1 shall have effect in relation to any particular claimant for income support from the first day of the first benefit week to commence for that claimant on or after 6th April 2003 and in this paragraph “benefit week” and “claimant” have the same meaning as in regulation 2(1) of the Income Support Regulations.

(3) This regulation, regulation 3 and Schedule 2 shall have effect in relation to any particular claimant for a jobseeker's allowance from the first day of the first benefit week to commence for that claimant on or after 6th April 2003 and in this paragraph “benefit week” has the same meaning as in regulation 1(3) of the Jobseeker's Allowance Regulations.

(4) Subject to paragraphs (5) and (6), regulations 4 and 5 and Schedules 3 and 4 shall come into force on 1st April 2003.

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(a) Section 137(1) is an interpretation provision and is cited because of the meaning given to the words “family” and “prescribed”.

(b) 1992 c. 4.

(c) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “family” and “prescribed”.

(d) See section 176(1)(a) of the Social Security Administration Act 1992.

(e) 2002 c. 21.

(f) See section 173(5)(b) of the Social Security Administration Act 1992.

(5) Paragraphs 1, 7, 10, 11 and 12 of Schedule 3 and paragraphs 1, 7, 10, 11 and 12 of Schedule 4 and regulations 4 and 5 insofar as they relate to those paragraphs shall come into force on 7th April 2003.

(6) In a case where rent is payable at intervals of a week or any multiple thereof, paragraphs 2 to 6, 8 and 9 of Schedule 4 and regulation 5 insofar as it relates to those paragraphs shall come into force on 7th April 2003.

(7) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(a);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(b);

“the Income Support Regulations” means the Income Support (General) Regulations 1987(c); and

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(d).

#### **Amendment of the Income Support Regulations**

2. The Income Support Regulations shall be amended in accordance with Schedule 1 and references in that Schedule to regulations and Schedules are to regulations of and Schedules to those Regulations.

#### **Amendment of the Jobseeker’s Allowance Regulations**

3. The Jobseeker’s Allowance Regulations shall be amended in accordance with Schedule 2 and references in that Schedule to regulations and Schedules are to regulations of and Schedules to those Regulations.

#### **Amendment of the Council Tax Benefit Regulations**

4. The Council Tax Benefit Regulations shall be amended in accordance with Schedule 3 and references in that Schedule to regulations and Schedules are to regulations of and Schedules to those Regulations.

#### **Amendment of the Housing Benefit Regulations**

5. The Housing Benefit Regulations shall be amended in accordance with Schedule 4 and references in that Schedule to regulations and Schedules are to regulations of and Schedules to those Regulations.

Signed by authority of the Secretary of State for Work and Pensions.

19th September 2002

*N. Brown*  
Minister of State,  
Department for Work and Pensions

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(a) S.I. 1992/1814.  
(b) S.I. 1987/1971.  
(c) S.I. 1987/1967.  
(d) S.I. 1996/207.

**Amendments to the Income Support Regulations**

1. In regulation 2(1) (interpretation)(a)—
  - (a) after the definition of “board and lodging accommodation” there shall be inserted—

““child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;”;
  - (b) after the definition of “welfare to work beneficiary” there shall be inserted—

““working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;”;
  - (c) the definitions of “disabled person’s tax credit” and “working families’ tax credit” shall be omitted.
2. In regulation 14(b) (persons of a prescribed description) after paragraph (2) there shall be added the following paragraph—

“(3) A person of a prescribed description for the purposes of section 137(1) of the Contributions and Benefits Act as it applies to income support (definition of family) includes a child or young person in respect of whom section 145A(c) of that Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.”.
3. In regulation 15(1)(d) (circumstances in which a person is to be treated as responsible or not responsible for another) at the end there shall be added “and this includes a child or young person to whom paragraph (3) of regulation 14 applies.”.
4. In regulation 31(e) (date on which income is treated as paid) for paragraph (3) there shall be substituted—

“(3) Where an award of working tax credit or child tax credit does not commence on the first day of a benefit week, it shall be treated as paid on the first day of the benefit week that follows the date of the award.”.
5. In Schedule 9(f) (sums to be disregarded in the calculation of income other than earnings) after paragraph 5 there shall be inserted the following new paragraph—

“**5A.**—(1) Any guardian’s allowance.

(2) In the case of a claimant receiving child benefit in respect of a child under the age of one year, £10.45 in respect of one child only.”.

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(a) The relevant amending instruments are S.I. 1988/2022, 1998/2231 and 1999/2566.  
(b) The relevant amending instruments are S.I. 1988/1445 and 2001/3070.  
(c) Section 145A is inserted by section 55 of the Tax Credits Act 2002 (c. 21).  
(d) The relevant amending instrument is S.I. 1993/2119.  
(e) The relevant amending instrument is S.I. 2000/681.  
(f) The relevant amending instrument is S.I. 1996/2431.

**Amendments to the Jobseeker's Allowance Regulations**

1. In regulation 1(3) (interpretation)(a)—
  - (a) after the definition of “board and lodging accommodation” there shall be inserted—  
““child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;”;
  - (b) after the definition of “welfare to work beneficiary” there shall be inserted—  
““working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;” and
  - (c) the definitions of “disabled person’s tax credit” and “working families’ tax credit” shall be omitted.
2. In regulation 76(b) (persons of a prescribed description) after paragraph (2) there shall be added the following paragraph—  
“(3) A person of a prescribed description for the purposes of the definition of “family” in section 35(1) of the Act includes a child or young person in respect of whom section 145A of the Benefits Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.”.
3. In regulation 77(1) (circumstances in which a person is to be treated as responsible or not responsible for another) at the end there shall be added “and this includes a child or young person to whom paragraph (3) of regulation 76 applies.”.
4. For regulation 96(3)(c) (date on which income is treated as paid) there shall be substituted—  
“(3) Where an award of working tax credit or child tax credit does not commence on the first day of a benefit week, it shall be treated as paid on the first day of the benefit week that follows the date of the award.”.
5. In Schedule 7 (sums to be disregarded in the calculation of income other than earnings) after paragraph 6 there shall be inserted the following new paragraph—  
“**6A.**—(1) Any guardian’s allowance.  
(2) In the case of a claimant receiving child benefit in respect of a child under the age of one year, £10.45 in respect of one child only.”.

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(a) The relevant amending instruments are S.I. 1998/2231 and 1999/2566.  
(b) The relevant amending instrument is S.I. 2001/3070.  
(c) The relevant amending instrument is S.I. 2000/681.

## Amendments to the Council Tax Benefit Regulations

1. In regulation 2 (1) (interpretation)(a)—
  - (a) after the definition of “child” there shall be inserted—
 

““child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;”;
  - (b) after the definition of “water charges” there shall be inserted—
 

““working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;” and
  - (c) the definitions of “disabled person’s tax credit” and “working families’ tax credit” shall be omitted.
  
2. In regulation 5(b) (persons of prescribed description) after paragraph (2) there shall be added the following paragraph—
 

“(3) A person of a prescribed description for the purposes of section 137(1) of the Contributions and Benefits Act 1992 as it applies to council tax benefit (definition of family) includes a child or young person in respect of whom section 145A of that Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.”.
  
3. In regulation 6(1) (circumstances in which a person is to be treated as responsible or not responsible for another) at the end there shall be added “and this includes a child or young person to whom paragraph (3) of regulation 5 applies.”.
  
4. In regulation 18(c) (disregard of changes in tax, contributions etc.) after sub-paragraph (d) there shall be inserted the following sub-paragraph—
 

“(e) in the maximum rate of child tax credit or working tax credit.”.
  
5. In regulation 24(d) (calculation of income other than earnings) after paragraph (2A) there shall be inserted the following paragraph—
 

“(2B) Subject to paragraph (2), where the claimant receives payment of a child tax credit or working tax credit in respect of a particular week, the amount to be taken into account under paragraph (1) shall be the actual amount of such payment received.”.
  
6. In regulation 26(e) (notional income) after paragraph (2)(e) there shall be inserted the following—
 

“or

  - (f) child tax credit; or
  - (g) working tax credit.”.
  
7. In regulation 31(f) (income treated as capital), after paragraph (8) there shall be inserted the following paragraph—
 

“(9) Any arrears of working tax credit or child tax credit shall be treated as capital.”.
  
8. In regulation 34(g) (notional capital) after paragraph (2)(e) there shall be inserted the following—
 

“or

  - (f) child tax credit; or
  - (g) working tax credit.”.
  
9. In paragraph 3 of Schedule 1(h) (applicable amounts)—
  - (a) in sub-paragraph (1) at the beginning there shall be inserted the words “Subject to sub-paragraph (1A)”;
  - (b) after sub-paragraph (1) there shall be inserted the following sub-paragraph—
 

“(1A) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.45 where at least one child is under the age of one year, and for the purposes of this paragraph where that child’s first birthday does not fall on a Monday he shall be treated as under the age of one year until the first Monday after his first birthday.”.

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(a) The relevant amending instruments are S.I. 1993/688, 1999/2566 and 2000/897.

(b) The relevant amending instrument is S.I. 2001/3070.

(c) The relevant amending instrument is S.I. 1993/668.

(d) The relevant amending instruments are S.I. 1993/2118 and 2002/841.

(e) The relevant amending instrument is S.I. 1998/563.

(f) The relevant amending instrument is S.I. 2002/841.

(g) The relevant amending instrument is S.I. 1997/2197.

(h) The relevant amending instruments are S.I. 1996/1803, 1998/766 and 2002/668.

**10.** In Schedule 3(a) (sums to be disregarded in the calculation of earnings), for paragraph 16 there shall be substituted the following paragraph—

“**16.**—(1) In a case where the claimant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 8 of this Schedule shall be increased by a sum equal to the 30 hour element of working tax credit referred to in regulation 20(1)(c) of the Working Tax Credit Regulations.

(2) The conditions of this sub-paragraph are that—

(a) the claimant, or if he is a member of a couple, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or

(b) the claimant—

(i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) is a member of a couple and—

(aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week;

(bb) the aggregate number of hours for which the couple are engaged in remunerative work is at least 30 hours per week; and

(cc) his applicable amount includes a family premium under paragraph 3 of Schedule 1; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 30 hours per week; or

(iv) is, or if he is a member of a couple, at least one member of that couple is or both members are, engaged in remunerative work for on average not less than 30 hours per week; and

(aa) the claimant’s applicable amount includes a higher pensioner premium or a disability premium under paragraph 11 or 12 of Schedule 1 respectively; and

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the higher pensioner premium or disability premium referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) the amount calculated as disregardable from the claimant’s earnings under paragraphs 3 to 8 of this Schedule;

(b) the amount of child care charges calculated as deductible under regulation 13(1)(c); and

(c) the amount of the 30 hour element referred to in regulation 20(1)(c) of the Working Tax Credit Regulations.

(4) The provisions of regulation 4 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation were a reference to 30 hours.

(5) In this paragraph “the Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b).”.

**11.** In Schedule 4(c) (sums disregarded in the calculation of income other than earnings)—

(a) paragraph 56 shall be omitted, and

(b) in paragraph 57, for the words after “where the claimant is entitled to” to the end of that paragraph there shall be substituted the words “the 30 hour element of working tax credit referred to in regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(d), any amount of Working Tax Credit up to the amount specified for that element in Schedule 2 to those Regulations.”.

**12.** In paragraph 8(1) of Schedule 5(e) (capital to be disregarded)—

(a) in sub-paragraph (b) after the words “family income supplement under the Family Income Supplements Act 1970” there shall be inserted the words “working families’ tax credit under section 128 of the Contributions and Benefits Act 1992, disabled person’s tax credit under section 129 of that Act.”; and

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(a) The relevant amending instruments are S.I. 1999/920 and 1999/2566.

(b) S.I. 2002/2005.

(c) The relevant amending instruments are S.I. 1995/1339, 1996/462, 1999/920 and 1999/2566.

(d) S.I. 2002/2005.

(e) The relevant amending instrument is S.I. 2001/2333.

- (b) after sub-paragraph (f) there shall be inserted the following sub-paragraph—
- “(g) working tax credit and child tax credit where such payment is made as a result of a change of circumstances.”.

**Amendments to the Housing Benefit Regulations**

1. In regulation 2(1) (interpretation)(a)—
  - (a) after the definition of “child” there shall be inserted—
 

““child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;”;
  - (b) after the definition of “water charges” there shall be inserted—
 

““working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;” and
  - (c) the definitions of “disabled person’s tax credit” and “working families’ tax credit” shall be omitted.
  
2. In regulation 13(b) (persons of prescribed description) after paragraph (2) there shall be added the following paragraph—
 

“(3) A person of a prescribed description for the purposes of section 137(1) of the Contributions and Benefits Act as it applies to housing benefit (definition of family) includes a child or young person in respect of whom section 145A of that Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.”.
  
3. In regulation 14(1) (circumstances in which a person is to be treated as responsible or not responsible for another) at the end there shall be added “and this includes a child or young person to whom paragraph (3) of regulation 13 applies.”.
  
4. In regulation 26 (disregard of changes in tax, contributions etc.) after sub-paragraph (d) there shall be inserted the following sub-paragraph—
 

“(e) in the maximum rate of child tax credit or working tax credit.”.
  
5. In regulation 33 (c)(calculation of income other than earnings) after paragraph (2A) there shall be inserted the following paragraph—
 

“(2B) Subject to paragraph (2), where the claimant receives payment of a child tax credit or working tax credit in respect of a particular week, the amount to be taken into account under paragraph (1) shall be the actual amount of such payment received.”.
  
6. In regulation 35(d) (notional income) after paragraph (2)(e) there shall be inserted the following—
 

“or

  - (f) child tax credit; or
  - (g) working tax credit.”.
  
7. In regulation 40(e) (income treated as capital), after paragraph (8) there shall be inserted the following paragraph—
 

“(9) Any arrears of working tax credit or child tax credit shall be treated as capital.”.
  
8. In regulation 43(f) (notional capital) after paragraph (2)(e) there shall be inserted the following—
 

“or

  - (f) child tax credit; or
  - (g) working tax credit.”.
  
9. In paragraph 3 of Schedule 2(g) (applicable amounts)—
  - (a) in sub-paragraph (1) at the beginning there shall be inserted the words “Subject to sub-paragraph (1A)”;
  - (b) after sub-paragraph (1) there shall be inserted the following sub-paragraph—
 

“(1A) The amounts specified in sub-paragraph (1)(a) and (b) shall be increased by £10.45 where at least one child is under the age of one year and for the purposes of this paragraph where that child’s first birthday does not fall on a Monday he shall be treated as under the age of one year until the first Monday after his first birthday.”.

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- (a) The relevant amending instruments are S.I. 1993/317, 1999/2566 and 2000/897.
  - (b) The relevant amending instrument is S.I. 2001/3070.
  - (c) The relevant amending instrument is S.I. 2002/841.
  - (d) The relevant amending instrument is S.I. 1998/563.
  - (e) The relevant amending instrument is S.I. 2000/724.
  - (f) The relevant amending instrument is S.I. 1997/2197.
  - (g) The relevant amending instruments are S.I. 1996/1803, 1998/766 and 2002/668.



**10.** In Schedule 3(a) (sums to be disregarded in the calculation of earnings), for paragraph 16 there shall be substituted the following paragraph—

“**16.**—(1) In a case where the claimant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 3 to 8 of this Schedule shall be increased by a sum equal to the 30 hour element of working tax credit referred to in regulation 20(1)(c) of the Working Tax Credit Regulations.

(2) The conditions of this sub-paragraph are that—

(a) the claimant, or if he is a member of a couple, either the claimant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or

(b) the claimant—

(i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) is a member of a couple and—

(aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week;

(bb) the aggregate number of hours for which the couple are engaged in remunerative work is at least 30 hours per week; and

(cc) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 30 hours per week; or

(iv) is, or if he is a member of a couple, at least one member of that couple is or both members are, engaged in remunerative work for on average not less than 30 hours per week; and

(aa) the claimant’s applicable amount includes a higher pensioner premium or a disability premium under paragraph 10 or 11 of Schedule 2 respectively; and

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the higher pensioner premium or disability premium referred to in sub-head (aa) above and is engaged in remunerative work for on average not less than 16 hours per week.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) the amount calculated as disregardable from the claimant’s earnings under paragraphs 3 to 8 of this Schedule;

(b) the amount of child care charges calculated as deductible under regulation 21(1)(c); and

(c) the amount of the 30 hour element referred to in regulation 20(1)(c) of the Working Tax Credit Regulations.

(4) The provisions of regulation 4 shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that regulation were a reference to 30 hours.

(5) In this paragraph “the Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b).”.

**11.** In Schedule 4(c) (sums disregarded in calculation of income other than earnings)—

(a) paragraph 57 shall be omitted, and

(b) in paragraph 58, for the words after “where the claimant is entitled to” to the end of that paragraph there shall be substituted the words “the 30 hour element of working tax credit referred to in regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, any amount of working tax credit up to the amount specified for that element in Schedule 2 to those Regulations.”.

**12.** In paragraph 8(1) of Schedule 5(d) (capital to be disregarded)—

(a) in sub-paragraph (b) after the words “family income supplement under the Family Income Supplement Act 1970” there shall be inserted the words “, working families’ tax credit under section 128 of the Contributions and Benefits Act, disabled person’s tax credit under section 129 of that Act;” and

---

(a) The relevant amending instruments are S.I. 1999/920 and 1999/2566.

(b) S.I. 2002/2005.

(c) The relevant amending instruments are S.I. 1995/1339, 1996/462, 1999/920 and 1999/2566.

(d) The relevant amending instrument is S.I. 2001/2333.

- (b) after sub-paragraph (e) there shall be inserted the following sub-paragraph—
- “(f) working tax credit and child tax credit where such payment is made as a result of a change of circumstances,”.

## **EXPLANATORY NOTE**

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

These Regulations amend the Income Support (General) Regulations 1987 (S.I. 1987/1967) (Schedule 1 to these Regulations), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) (Schedule 2 to these Regulations), the Council Tax Benefit (General) Regulations (S.I. 1992/1814) (Schedule 3 to these Regulations) and the Housing Benefit (General) Regulations (S.I. 1987/1971) (Schedule 4 to these Regulations) referred to in this note as "the amended Regulations". They make provision to the amended Regulations in connection with the introduction of child tax credit and working tax credit by the Tax Credits Act 2002 ("the 2002 Act").

The amendments remove references in the amended Regulations to working families' tax credit and disabled person's tax credit, which are abolished by section 1 of the 2002 Act, and include references to child tax credit and working tax credit created by that Act. They make provision for treating the date on which the tax credits are to be paid in income support and jobseeker's allowance and for additional income disregards in all the amended Regulations which are connected with the introduction of the tax credits.

The amendments also make provision in connection with the extended entitlement to child benefit following the death of a child introduced by section 55 of the 2002 Act and make other changes consequential upon, and relating to, the 2002 Act.

These Regulations do not impose a charge on business.

**2002 No. 2402**

**SOCIAL SECURITY**

**The Income-related Benefits and Jobseeker's Allowance  
(Working Tax Credit and Child Tax Credit) (Amendment)  
Regulations 2002**

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