
STATUTORY INSTRUMENTS

2003 No. 2077

TAX CREDITS, CHILDREN

The Children Act 1989, Section 17(12) Regulations 2003

Made - - - - *11th August 2003*
Laid before Parliament *11th August 2003*
Coming into force - - *1st September 2003*

The Treasury, in exercise of the powers conferred upon them by sections 17(12) and 104 of the Children Act 1989(1), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Children Act 1989, Section 17(12) Regulations 2003 and shall come into force on 1st September 2003.

Interpretation

2. In these Regulations—

“child care” has the meaning in the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(2);

“relevant child care charges” has the meaning given in regulation 14(1) of those Regulations.

Treating a person as in receipt of working tax credit or of any element of child tax credit other than the family element

3. A person shall be treated, for the purposes of Part 3 of the Children Act 1989, as in receipt of working tax credit, or of any element of child tax credit other than the family element, where—

- (a) the person is in receipt of assistance under section 17 of that Act, or of a direct payment or voucher under section 17A or 17B of that Act; and
- (b) that assistance consists in the provision (or a direct payment or voucher to secure the provision) of child care, the cost of which (if paid for by the person out of his own resources) would—
 - (i) be relevant child care charges in relation to that person, and

(1) 1989 c. 41; section 17 was amended, and subsection (12) inserted, by paragraph 16 of Schedule 3 to the Tax Credits Act 2002 (c. 21). Section 104 was amended (by the insertion of the words “the Treasury”) by paragraph 19 of that Schedule.
(2) S.I.2002/2005; amended by S.I. 2003/701, 742.

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- (ii) cause that person (in circumstances where, but for that cost, he would otherwise not be) to be entitled to working tax credit, or to any element of child tax credit other than the family element.

11th August 2003

Jim Murphy
Joan Ryan
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 17(9) Children Act 1989 (as amended by paragraph 16 of Schedule 3 to the Tax Credits Act 2002) provides that, where a local authority provides services for children in need and their families, no person shall be liable to repay the cost of those services if he or she is in receipt of working tax credit, or of any element of child tax credit other than the family element. Sections 17A and 17B of the Children Act contain similar provisions relating to direct payments and vouchers. Section 17(12) (as added by paragraph 16(3) of Schedule 3 to the Tax Credits Act) allows the Treasury to make regulations deeming a person to be in receipt of the credit or element.

These Regulations are made to remove the possibility of circularity in a small number of cases, due to the interaction between the tax credit and Children Act rules. A family may be in receipt of working tax credit, or child tax credit in excess of the family element, due only to the fact that it is incurring child care costs. If the local authority then provide for free child care, that may reduce the family's tax credit entitlement, to a level where (under the Children Act) they have to repay the cost to the authority. That will in turn increase their tax credit entitlement (and so on). These Regulations provide that where local authorities provide free day child care, they can ignore the effect of that free provision of child care on the family's actual tax credit award.