

**EXPLANATORY MEMORANDUM TO THE
WORKING TAX CREDIT (ENTITLEMENT AND MAXIMUM RATE)
(AMENDMENT) REGULATIONS 2005**

2005 No.769

- 1.** This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

- 2.1 These regulations bring together an amendment to the rules about Working Tax Credit, which were announced in Budget 2004. The amendment relates to childcare.
- 2.2 The list of eligible child care providers is extended, so that parents can claim the Working Tax Credit (“WTC”) child care element if they use a child carer approved under the Tax Credits (Approval of Child Care Providers) Scheme 2005 (CAP) which is being introduced on 6th April 2005. The new CAP applies to England only.
- 2.4 These regulations amend the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (SI 2002/2005 as amended by SI 2003/701, 2003/2815, SI 2004/762 and SI 2004/ 1276: “the principal Regulations”).
- 2.5 Regulations 2 and 3 amend regulation 14 of the principal Regulations. It provides that it excludes care by a relative of the child, in the relative’s home, where that carer only provides care for the children of relatives.
- 2.6 Regulation 4 also amends regulation 14 and extends the categories of childcare providers whose care is treated as “eligible” care for the purposes of claiming the childcare element of Working Tax Credit. The new category of provider s is that of carers who have been approved by the Tax Credits (Approval of Child Care Providers) Scheme 2005 (SI 2005/93).

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These regulations have been made and laid less than 21 days before they come into force. As it extends the categories of childcare eligible for the child care element of the Working Tax Credit, their effect is wholly relieving. It has not been possible to make the Regulations earlier, owing to the need to avoid the immediate pre-Budget period, and lay them with another Instrument (see the Memorandum to the Select Committee for the Section 318C Income Tax (Earnings and Pensions) Act 2003 (Amendment) Regulations 2005).

4. Legislative Background

- 4.1 Section 12 of the Tax Credits Act 2002 provides that the prescribed manner of determination of the maximum rate of Working Tax Credit may include a child care element. Subsection (4) provides for the definition in regulations of “child care”.
- 4.2 Regulation 14 of the principal Regulations provides for a child care element to be included in an award of working tax credit. It provides the definition of “relevant child care charges” for the purposes of the child care element of WTC.
- 4.3 As mentioned above, regulation 14 is amended in exercise of the power contained in section 12(4)(b) to extend the categories of child care provider, so that a WTC claimant’s costs in securing the provision of child care in this additional way will lead to increased entitlement to tax credit.
- 4.4 The new category of provider is approved in accordance with a scheme – the Childcare Approval Scheme- made by the Secretary of State for Education and Skills in exercise of the powers contained in sections 12(5) and (6) of the Act.

5. Extent

- 5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

- 6.1 This instrument is subject to annulment and does not amend primary legislation. Accordingly no statement of compatibility with the Convention rights is required.

7. Policy background

- 7.1 Including carers approved under the new Childcare Approval Scheme in the list of eligible providers for the purposes of the WTC child care element provides another group of good-quality child carers who have met certain defined standards.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

9. Contact

Denis Fitzgerald at the Inland Revenue [tel: 020 7147 2506 or e-mail: Denis.Fitzgerald@ir.gsi.gov.uk] can answer any queries regarding the instrument.