

**EXPLANATORY MEMORANDUM TO
THE WORKING TAX CREDIT (ENTITLEMENT AND MAXIMUM RATE)
(AMENDMENT) REGULATIONS 2010**

2010 No. 918

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This statutory instrument amends the childcare provisions in the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) (“the Entitlement Regulations”) in relation to circumstances where childcare costs decrease.

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

3.1 None.

4. Legislative Context

4.1 The instrument amends regulation 16(5) of the Entitlement Regulations, in exercise of powers afforded to the Treasury by the Tax Credits Act 2002 (c. 21), to provide that in the case where a family claim and are awarded the childcare element of working tax credit for a specific fixed period only, at the end of the fixed period of the award the childcare entitlement shall be recalculated from the first day of the week following the end of the fixed period.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The childcare element of working tax credit is normally paid on the basis of childcare costs averaged across the year. Where during the period of the award there is a change in a family’s childcare arrangements resulting in a

decrease or nil weekly costs, regulation 16(1) and (5)(b) of the Entitlement Regulations provides for the childcare entitlement in working tax credit to be recalculated from the first day of the week following the four consecutive weeks in which the change occurs. The effect of regulation 16(1) and (5)(b) is to give the family four weeks in which to report the change in circumstances without immediately incurring an overpayment.

From April 2010, an enhancement to the tax credits system will enable awards for fixed period childcare costs (such as claims for awards of a few weeks during the school holidays) to be averaged and paid over that fixed period, providing families with the financial support towards their childcare costs when they need it, instead of the equivalent amount paid over 12 months.

This improvement will render it unnecessary and inappropriate to apply regulation 16(5)(b) in such cases when a family's childcare costs cease, as the end date will have been notified when the claim for the award was made.

Regulation 16 is being amended to provide that when childcare ceases in such cases, the childcare entitlement in tax credits shall be recalculated from the first day of the week following the end of the fixed period of the award.

8. Consultation outcome

8.1 There is no statutory requirement to consult on these Regulations. A copy of this amendment is being sent to the Social Security Advisory Committee (SSAC) under its Memorandum of Understanding with HMRC.

9. Guidance

9.1 The provisions of these amending regulations will be reflected in the Tax Credits Technical Manual. This is available on the HMRC website at www.hmrc.gov/taxcredits/manuals/tctmanual/index.htm

10. Impact

10.1 An Impact Assessment has not been produced for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The change to Tax Credits in pursuant to these Regulations will have a negligible impact on the Exchequer.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This is a technical amendment and does not require further review.

13. Contact

May Cantell at HMRC Tel: 020 7147 2475 or email: may.cantell@hmrc.gsi.gov.uk can answer any queries regarding the instrument.