

2012 No. 848

TAX CREDITS

The Tax Credits (Miscellaneous Amendments) Regulations 2012

Made - - - - *16th March 2012*

Laid before Parliament *16th March 2012*

Coming into force

for the purpose of regulations 1(1) to 1(3), 2(1), 2(2)(b), 2(3) to 2(10), 2(11)(c), 2(12), 2(13)(c), 2(14) to 2(16), 2(17)(c)(iii), 2(18) to 2(20), and 3 to 9 *6th April 2012*

for the purposes of regulations 1(4), 2(2)(a), 2(11)(a) to 2(11)(b), 2(13)(a) to 2(13)(b), and 2(17)(a) to 2(17)(c)(ii) *1st May 2012*

The Treasury make regulations 1(1), 1(2), 1(4), 2, 3, 4, 7, 8 and 9 of these Regulations exercising their powers in sections 3(7), 7(8), 8(2), 8(3), 9, 10, 11(7), 12(1), 42(1), 65(1), 65(7), 65(9) and 67 of the Tax Credits Act 2002(a).

The Commissioners for Her Majesty's Revenue and Customs make regulations 1(1), 1(3), 5 and 6 of these Regulations exercising their powers in sections 4(1)(b), 6, 24(7), 65(2), 65(7), 65(9) and 67 of that Act(b).

Citation and commencement

1.—(1) These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) Regulations 2012.

This paragraph comes into force on 6 April 2012.

(2) Regulations 2(1), 2(2)(b), 2(3) to 2(10), 2(11)(c), 2(12), 2(13)(c), 2(14) to 2(16), 2(17)(c)(iii), 2(18) to 2(20), 3, 4, and 7 to 9 – and this paragraph – come into force on 6 April 2012.

(3) Regulations 5 and 6 – and this paragraph – come into force on 6 April 2012.

(4) Regulations 2(2)(a), 2(11)(a) to 2(11)(b), 2(13)(a) to 2(13)(b), and 2(17)(a) to 2(17)(c)(ii) – and this paragraph – come into force on 1 May 2012.

(a) 2002 c. 21.

(b) 2002 c. 21. Sections 65(2) and 67 provide that the power to make regulations under sections 4(1)(b) and 24(7) is exercisable by the Commissioners of Inland Revenue, but the Commissioners for Her Majesty's Revenue and Customs now have this function and those sections must be so taken given sections 5(2) and 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11).

Amendment of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002: elements of the credit; time off; illness, etc; not working; changed circumstances; rates

2.—(1) This regulation amends the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(a) as follows.

(2) In regulation 2(1)—

(a) after the entry for “initial claim”, it inserts:

““limited capability for work credit” refers to a credit under regulation 8B(1) of the Social Security (Credits) Regulations 1975(b) where paragraph (2)(a)(iv) or (2)(a)(v) of that regulation applies, and which follows the cessation of the entitlement period of contributory employment and support allowance;”; and

(b) in the entry for “patient”, for “1975” it substitutes: “2005(c)”.

(3) In regulation 3—

(a) in paragraph (1)—

(i) after sub-paragraph (d), it inserts: “and”;

(ii) it omits sub-paragraph (f) and the “and” before it;

(b) in paragraph (3)—

(i) after sub-paragraph (a), it inserts: “or”;

(ii) it omits sub-paragraph (c) and the “or” before it.

(4) In regulation 4(1)—

(a) after “conditions”, it inserts: “(and in the case of the Second condition, one of the variations in that condition)”;

(b) in the Second condition—

(i) for “The person”, it substitutes: “First variation: In the case of a single claim, the person—”;

(ii) in paragraph (a)(ii), it omits: “either he or his partner”;

(iii) it omits paragraph (b);

(iv) after paragraph (d), it inserts—

“Second variation: In the case of a joint claim where neither person is responsible for a child or qualifying young person, the person—

(a) is aged at least 16 and undertakes work for not less than 16 hours per week and has a physical or mental disability which puts that person at a disadvantage in getting a job and satisfies regulation 9(1)(c);

(b) is aged at least 25 and undertakes work for not less than 30 hours per week; or

(c) is aged at least 60 and undertakes work for not less than 16 hours per week.

Third variation: In the case of a joint claim where a person or that person’s partner is responsible for a child or qualifying young person, the person—

(a) is aged at least 16 and is a member of a couple where at least one partner undertakes work for not less than 16 hours per week and the aggregate number of hours for which the couple undertake work is not less than 24 hours per week;

(b) is aged at least 16 and undertakes work for not less than 16 hours per week and has a physical or mental disability which puts that person at a disadvantage in getting a job and satisfies regulation 9(1)(c);

(a) S.I. 2002/2005; relevant amending instruments are S.I. 2003/70, 2003/701, 2003/2815, 2004/762, 2006/217, 2008/1879, 2009/697, 2009/1829, 2010/2914.

(b) S.I. 1975/556; relevant amending instruments are S.I. 1996/2367, 2000/3120, 2003/521, 2008/1554, 2010/385.

(c) Regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005 (S.I. 2005/3360) re-enacted the definition of a hospital in-patient previously found in S.I. 1975/555 (as amended by S.I. 1992/2595 and 1999/1326).

- (c) is aged at least 16 and undertakes work for not less than 16 hours per week and that person's partner is—
 - (i) incapacitated and satisfies any of the circumstances in regulation 13(4) to (8); or
 - (ii) an in-patient in hospital; or
 - (iii) in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence); or
 - (iv) entitled to carer's allowance under section 70 of the Social Security Contributions and Benefits Act 1992(a);
- (d) is aged at least 60 and undertakes work for not less than 16 hours per week.”;
- (c) it omits from “Paragraphs (3) and (4)” to “getting a job.”.
- (5) After regulation 4(1) it inserts—
 - “(1A) For the purposes of interpretation of paragraph (1)—
 - (a) paragraphs (3) and (4) provide the method of determining the number of hours of qualifying remunerative work that a person undertakes;
 - (b) regulations 5, 5A, 6 and 7A and 7B apply in relation to periods of absence from work connected with childbirth or adoption, sickness, strike periods or suspension from work;
 - (c) regulations 7 and 7C apply to term time and seasonal workers and where pay is received in lieu of notice;
 - (d) regulation 7D applies where a person or, in the case of a joint claim, one or both persons cease to work or reduce their hours to the extent that they no longer satisfy the Second condition in paragraph (1);
 - (e) regulation 8 applies where there is a gap between jobs;
 - (f) 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.”.
- (6) In regulation 5(2), for “paragraphs (3) and (3A)”, it substitutes: “paragraphs (3), (3A) and regulation 7D”.
- (7) In regulation 5A—
 - (a) in paragraph (2), for “A person who was undertaking qualifying remunerative work for at least 16 hours per week”, it substitutes: “A person who would have been treated as being engaged in qualifying remunerative work if they or, in the case of a joint claim, they or their partner had been responsible for a child or qualifying young person”;
 - (b) after paragraph (3), it inserts—
 - “(4) This regulation is subject to regulation 7D.”.
- (8) In regulation 6(2), for “paragraphs (3) and (4)”, it substitutes: “paragraphs (3), (4) and regulation 7D”.
- (9) In regulations 7A(2) and 7B(2), for “paragraph (3)”, it substitutes: “paragraph (3) and regulation 7D”.
- (10) In regulation 7D—
 - (a) in the heading after “16”, it inserts: “, 24”;
 - (b) in paragraph (1)(e), after (c), it inserts: “of the first variation or paragraph (b) of the second variation”;
 - (c) after paragraph (1)(e), it inserts—

(a) 1992 c. 4; section 70 was amended by S.I. 2002/1457 and S.I. 2011/2426.

“(f) one or both members of a couple who satisfy paragraph (a) of the third variation of the Second condition in regulation 4(1) and are engaged in qualifying remunerative work cease to work or reduce their hours to the extent that they cease to meet the condition that one member of the couple works not less than 16 hours per week and the aggregate number of hours for which the couple are engaged in qualifying remunerative work is not less than 24 hours per week.”.

(11) In regulation 9(2)(d)—

- (a) after the first use of “employment and support allowance”, it inserts: “or a limited capability for work credit,”;
- (b) after the second use of “employment and support allowance”, it inserts: “or that credit”;
- (c) after “sick pay”, it inserts: “or a benefit or allowance mentioned in sub-paragraphs (a) to (c) or the income support payable under paragraph (3)(a),”.

(12) In regulation 9(6)(a)(ii)—

- (a) after “on account of his”, it inserts: “incapacity for work or”;
- (b) after “an employment and support allowance”, it inserts: “, or the pay or benefit mentioned in paragraph (i),”;
- (c) after the second use of “on account of”, it inserts: “incapacity for work or”.

(13) In regulation 9(7)(b)(iv)—

- (a) after “employment and support allowance”, it inserts: “or a limited capability for work credit,”;
- (b) after “that allowance”, it inserts: “or credit”;
- (c) after the first use of “sick pay”, it inserts: “or a benefit or allowance mentioned in paragraphs (i) to (iii),”.

(14) In regulation 10, it omits paragraph (3).

(15) In regulation 11—

- (a) it omits paragraphs (2) and (3);
- (b) in paragraph (4), it omits: “also”.

(16) In regulation 13(1)—

- (a) in sub-paragraphs (b) and (c), after “work”, it inserts: “for not less than 16 hours per week”;
- (b) in sub-paragraph (c)(iii) it omits the full stop and inserts “; or” and after sub-paragraph (c)(iii) it inserts—
 - “(iv) is entitled to carer’s allowance under section 70 of the Social Security Contributions and Benefits Act 1992(a).”.

(17) In regulation 13(6)—

- (a) after “payable” in the introductory words, it inserts: “or – in the case of a credit – an entitlement”;
- (b) it omits in the introductory words: “pensions or allowances”;
- (c) in sub-paragraph (h)—
 - (i) after “support allowance”, it inserts: “or a limited capability for work credit,”;
 - (ii) after “that allowance”, it inserts: “or credit”;
 - (iii) after the first use of “sick pay”, it inserts: “or a benefit or allowance mentioned in sub-paragraph (a) or (b) or (d),”.

(18) In regulation 16(5)(a)(ii), for “three months” it substitutes: “one month”.

(19) It omits regulation 18.

(a) 1992 c. 4; section 70 was amended by S.I. 2002/1457 and S.I. 2011/2426.

(20) In regulation 20(1)—

- (a) after sub-paragraph (e), it inserts: “and”;
- (b) it omits: sub-paragraph (g) and the “and” before it.

Amendment of the Tax Credits (Definition and Calculation of Income) Regulations 2002: income disregards, etc

3.—(1) This paragraph amends Table 1 in regulation 4(4) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(a) by inserting as item 3C—

“3C The payment under a Royal Warrant made under section 333 of the Armed Forces Act 2006(b), of the Continuity of Education Allowance to or in respect of members of the armed forces of the Crown during their employment under the Crown or after their deaths.”.

(2) This paragraph amends that table by inserting as item 21—

“21 The payment or reimbursement of a fee within section 326A(1) of ITEPA(c) (fees relating to vulnerable persons’ monitoring schemes).”.

(3) This paragraph amends regulation 8 of those Regulations as follows—

- (a) in paragraph (a), for everything after “payable”, it substitutes: “pursuant to regulations under section 22 of the Teaching and Higher Education Act 1998(d);”;
- (b) in paragraph (b), for “1999”, it substitutes: “2007(e);”;
- (c) in paragraph (c), it omits: “and Wales”;
- (d) in paragraph (d), for everything after “payable”, it substitutes: “pursuant to regulations under section 22 of the Teaching and Higher Education Act 1998(f).”.

Amendment of the Child Tax Credit Regulations 2002: 16-year olds, etc

4.—(1) This regulation amends the Child Tax Credit Regulations 2002(g) as follows.

(2) In regulation 2(1), for the definition of “placing for adoption”, it substitutes—

““placing for adoption” means placing for adoption in accordance with—

- (a) the Adoption Agencies Regulations 2005(h),
- (b) the Adoption Agencies (Wales) Regulations 2005(i),
- (c) the Adoption Agencies (Scotland) Regulations 2009(j), or
- (d) the Adoption Agencies Regulations (Northern Ireland) 1989(k);”.

(a) S.I. 2002/2006; relevant amending instruments are S.I. 2003/732, 2003/2815, 2006/766, 2008/604, 2008/2169.
(b) 2006 c. 52, section 382 of which was substituted by section 1 of the Armed Forces Act 2011 (c. 18) (duration of armed forces legislation).
(c) Regulation 2(2) of S.I. 2002/2006 defines “ITEPA” as the Income Tax (Earnings and Pensions) Act 2003 (c. 1). Section 326A was inserted by the Finance Act 2011 (c. 11), section 39(1).
(d) 1998 c. 30; section 22(1) was amended in relation to relevant grants by sections 146(1) and 146(2)(a) of the Learning and Skills Act 2000 (c. 21).
(e) As a result, the reference in S.I. 2002/2006 changes from S.I. 1999/1131 to S.S.I. 2007/153.
(f) 1998 c. 30. For Wales, functions of the Secretary of State under section 22 were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004 (c. 8), S.I. 2005/1833 (W. 149) (C. 79) and S.I. 2006/1660 (W. 159) (C. 56). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 (c. 32), Schedule 11, paragraphs 30(1) and 30(2)(c). See also footnote (d) on this page.
(g) S.I. 2002/2007, amended by S.I. 2008/2169; there are other amending instruments but none is relevant.
(h) S.I. 2005/289, to which there are amendments not relevant to these Regulations.
(i) S.I. 2005/1313 (W. 95), to which there are amendments not relevant to these Regulations.
(j) S.S.I. 2009/154, to which there are amendments not relevant to these Regulations.
(k) S.I. 1989/253, to which there are amendments not relevant to these Regulations.

(3) In the following places in Rule 4.1 of regulation 3, after “under”, it inserts: “section 22C(10)(a) or”—

- (a) in sub-paragraph (i) in Case A;
- (b) in Case B.

(4) In regulation 4—

- (a) for “A” at the beginning of paragraph (1), it substitutes: “Subject to paragraph (1A), a”;
- (b) after paragraph (1), it inserts—

“(1A) A person who attains the age of sixteen on 31st August is a qualifying young person from the date on which that person attained that age.”;
- (c) after paragraph (2), it inserts—

“(2A) Paragraph (1A) is subject to regulation 5.”.

Amendment of the Tax Credits (Claims and Notifications) Regulations 2002: changed circumstances, etc

5.—(1) This regulation amends the Tax Credits (Claims and Notifications) Regulations 2002**(b)** as follows.

(2) In the following places, for “93”, it substitutes: “31”—

- (a) in the heading to regulation 7,
- (b) in regulation 7(2)(a),
- (c) in regulation 8(2)(b),
- (d) in regulation 8(3)(b).

(3) In regulation 21(2)—

- (a) in sub-paragraph (c)(i), after “5 to 8”, it inserts: “except where that person falls within paragraph (a) of the third variation of the Second Condition”;
- (b) for sub-paragraph (d), it substitutes—

“(d) a person ceases to undertake work for at least 30 hours per week for the purposes of the first or second variation of the Second Condition in regulation 4(1) of the Working Tax Credit Regulations (read with regulations 4(3) to (5) and 5 to 8), except in a case where that person still falls within the terms of paragraph (a) or (d) of the first variation or paragraph (a) or (c) of the second variation of that Condition;”;

- (c) at the end of sub-paragraph (e)(i), it inserts: “or”;
- (d) it omits sub-paragraph (e)(iii) and the “or” before it;
- (e) after sub-paragraph (k), it inserts—

“(l) one or both members of a couple who satisfy paragraph (a) of the third variation of the Second Condition in regulation 4(1) of the Working Tax Credit Regulations (read with regulations 4(3) to (5) and 5 to 8) and are engaged in qualifying remunerative work cease to meet the condition that one member of the couple works not less than 16 hours per week and the aggregate number of hours for which the couple are engaged in qualifying remunerative work is not less than 24 hours per week, except in a case where the person or their partner still falls within the terms of paragraph (b), (c) or (d) of the third variation of that Condition”.

(4) In the following places, for “3 months”, it substitutes: “one month”—

(a) Section 22C(10) of the Children Act 1989 (c. 41) was inserted by section 8(1) of the Children and Young Persons Act 2008 (c. 23).

(b) S.I. 2002/2014; relevant amending instruments are S.I. 2006/2689, 2009/697 and 2009/2887.

- (a) in regulation 25(3)(a),
- (b) in regulation 26(2)(b),
- (c) in regulation 26(3)(b),
- (d) in regulation 26A(2)(b),
- (e) in regulation 26A(3)(b).

Amendment of the Tax Credits (Payments by the Commissioners) Regulations 2002: time limit

6.—(1) This regulation amends the Tax Credits (Payments by the Commissioners) Regulations 2002(a) as follows.

(2) In regulation 11(2A)(b), for “eight” it substitutes: “four”.

(3) The amendment made by paragraph (2) only has effect in relation to a notice given on or after 6 April 2012 within regulation 11(2A)(a) of those Regulations.

Amendment of the Tax Credits (Immigration) Regulations 2003: time limit

7. This regulation amends regulation 3(5)(b) of the Tax Credits (Immigration) Regulations 2003(b) by substituting for “3 months”: “one month”.

Amendment of the Tax Credits (Residence) Regulations 2003: legislative references

8. This regulation amends regulation 3(4) of the Tax Credits (Residence) Regulations 2003(c) by substituting the following for “Council Regulation (EEC) No. 1612/68(d) as amended by Council Directive No 2004/38/EC(e), or Commission Regulation (EEC) No. 1251/70(f)”: “Parliament and Council Regulation (EU) No 492/2011(g)”.

Amendment of the Tax Credits (Polygamous Marriages) Regulations 2003: basic element of Working Tax Credit

9. For regulation 29 of the Tax Credits (Polygamous Marriages) Regulations 2003(h), this regulation substitutes—

“**29.** In regulation 4(1) in the third variation of the Second Condition—

- (a) in the introduction, for “that person’s partner” substitute: “any other member of the polygamous unit”; and
- (b) in paragraph (a)—
 - (i) for “couple” (in both places) substitute: “polygamous unit”; and
 - (ii) for “partner” substitute: “member of the unit”.”.

(a) S.I. 2002/2173; relevant amending instruments are S.I. 2005/2200, 2010/751.
 (b) S.I. 2003/653, to which there are amendments not relevant to these Regulations.
 (c) S.I. 2003/654, amended by S.I. 2006/766; there are other amending instruments but none is relevant.
 (d) OJ No L 257, 19.10.68, p 2, to which there are other amendments, but not relevant to these Regulations.
 (e) OJ No L 158, 30.4.04, p 77, to which there are corrigenda not relevant to these Regulations.
 (f) OJ No L 142, 30.6.70, p 24 (OJ/SE Series I Chapter 1970(II) p, 0402); repealed by Commission Regulation (EC) No 635/2006 (OJ No L 112, 26.4.06, p 9).
 (g) OJ No L 141, 27.5.11, p 1.
 (h) S.I. 2003/742.

16th March 2012

Two of the Lords Commissioners of Her Majesty's Treasury

*James Duddridge
Angela Watkinson*

16th March 2012

Two of the Commissioners for Her Majesty's Revenue and Customs

*Stephen Banyard
Simon Bowles*

EXPLANATORY NOTE

(This note is not part of the Regulations)

Starting on 6 April 2012

Regulations 2(3) to 2(10), 2(14) to 2(16), 2(19), 2(20), 5(3) and 9 amend tax credit regulations to implement changes to the Working Tax Credit ("WTC") eligibility rules so that couples with children must work 24 hours per week between them with one partner working at least 16 hours per week to qualify for WTC. They add new requirements for joint claims by and changed circumstances of couples, and they also remove the 50 plus element. They also apply the changed eligibility rules to polygamous units.

Regulations 2(11)(c), 2(12), 2(13)(c) and 2(17)(c)(iii) amend tax credit regulations to preserve the working tax credit position when an incapacitated person becomes assessed as having a limited capability for work and moves to employment and support allowance.

Regulations 2(18), 5(2), 5(4) and 7 amend tax credit regulations to reduce the time for which claims for tax credits can be backdated, and for which backdated claims can be paid, to 31 days (from 93 days) or to 1 month (from 3 months).

Regulations 3(1) and 3(2) make amendments to tax credits regulations to provide for the Continuity of Education Allowance, and the payment or reimbursement of fees relating to the specified vulnerable persons' monitoring schemes, to be disregarded when calculating employment income for the purposes of tax credits.

Regulation 4(4) amends tax credit regulations so that a child attaining the age of 16 on 31 August becomes a qualifying young person from that birthday for child tax credit purposes.

Regulation 6(2) makes an amendment to tax credits regulations that reduces to 4 weeks (from 8 weeks) the period in which a person should notify an account to which HM Revenue & Customs may make tax credit payments.

Regulations 2(2)(b), 3(3), 4(2), 4(3) and 8 take the opportunity to update legislative references in tax credits regulations.

Starting on 1 May 2012

Regulations 2(2)(a), 2(11)(a) to 2(11)(b), 2(13)(a) to 2(13)(b), and 2(17)(a) to 2(17)(c)(ii) make amendments to tax credits regulations to preserve the working tax credit position on introduction of a time limit to contribution-based employment and support allowance for recipients in the work related activity group.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

2012 No. 848

TAX CREDITS

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