

**EXPLANATORY MEMORANDUM TO**  
**THE TAX CREDITS (MISCELLANEOUS AMENDMENTS) REGULATIONS**  
**2012**

**2012 No. 848**

1. This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC), mainly on behalf of HM Treasury (HMT), and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The instrument makes changes to regulations to achieve the following outcomes for tax credits purposes, starting on 6 April 2012 (for outcome (g)(ii), 1 May 2012).
  - 2.2
    - (a) Changing the qualification rules for Working Tax Credit (WTC) so that couples with children must work 24 hours a week between them, with one partner working at least 16 of those hours;
    - (b) reducing the time for making a claim or notifying a specific change of circumstance, as well as making consequential amendments to the dates on which a claim can be treated as having been made;
    - (c) removing entitlement to the 50+ elements of the WTC;
    - (d) disregarding Continuity of Education Allowance and the fees for vulnerable persons' monitoring schemes when calculating employment income;
    - (e) clarifying the position with regard to a child whose 16th birthday falls on 31 August in any calendar year, with regard to the period for which s/he is considered a qualifying young person and is subject to the conditions in regulation 5;
    - (f) reducing to 4 weeks (from 8 weeks) the period in which someone must notify HM Revenue & Customs about the account into which tax credits should be paid;
    - (g) keeping the WTC unchanged when: (i) someone moves to an Employment and Support Allowance from Incapacity Benefit, Severe Disablement Allowance or Income Support, or (ii) someone's entitlement to contribution-based Employment and Support Allowance ceases because of the twelve month time limit that is due to be introduced on 1 May 2012;
    - (h) updating references about other legislation.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

## **4. Legislative Context**

4.1 This instrument is made to achieve the outcomes listed in paragraph 2.2 by amending S.I. 2002/2005, 2002/2006, 2002/2007, 2002/2014, 2002/2173, 2003/653, 2003/654 and 2003/742. The outcomes in (a), (b), (d), (f), (g) and (h) are self-explanatory.

4.2 For outcome (d), “Continuity of Education Allowance” (CEA) is paid to Armed Forces personnel to provide a continuity of education for their children that would not otherwise be possible if they accompanied their parents on frequent assignments both at home and overseas. By adding to Table 1 in regulation 4 (4) of S.I. 2002/2006, regulation 3(1) ensures that this is disregarded when calculating employment income for tax credits purposes.

4.3 Also for outcome (d), section 326A of the Income Tax (Earnings and Pensions) Act 2003 (inserted by section 39(1) of the Finance Act 2011) provides for no income tax liability to arise when someone is paid or reimbursed for the fees incurred on applying to join a scheme for the collation and disclosure of information about individuals working with vulnerable people. Regulation 3(2) ensures that these items are also disregarded.

4.4 For outcome (e), regulation 4(4) clarifies how regulation 4 of S.I. 2002/2007 applies to a child whose 16th birthday falls on 31 August, and determines the period for which a child who attains the age of 16 is a qualifying young person.

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

### *Amendments to the Working Tax Credit (Entitlement and Maximum Rate) Regulations*

7.1 The regulations are amended to reflect the Spending Review 2010 announcement that, from 6 April 2012, couples with children will need to work a minimum of 24 hours a week between them, with one partner working at least 16 hours a week, before they qualify for WTC. Couples with children will qualify for WTC where one member of a couple works at least 16 hours a week and that person is eligible for the disability element or is aged 60 or over. Couples with children will also qualify for WTC where one member of a couple works at least 16 hours a week and the other member of the couple is incapacitated, an in-patient in hospital, in prison or a carer entitled to Carers Allowance.

7.2 Couples affected by this change will not be entitled to a four week run-on solely because of this change to the regulations. This is because the loss in entitlement is because of a change in entitlement conditions, not because they have ceased work or reduced their working hours.

7.3 The changes maintain the current position for entitlement to the child care element of WTC. Where a claim is made by a couple, each member must be in qualifying remunerative work for at least 16 hours a week to qualify for child care element of WTC. This requirement is, however, relaxed where one member is incapacitated, in hospital, in prison or a carer entitled to Carers Allowance. Where this occurs the other member must work at least 16 hours a week to qualify.

7.4 The amended regulations also aim to maintain the status quo in respect of qualifying benefits for the disability element of WTC and the definition of “incapacitated” for the purposes of the childcare element of WTC. These amendments are required following the introduction on 1 May 2012 of a 12 month time limit to contribution-based employment and support allowance for recipients in the work related activity group and the migration to employment and support allowance of recipients of incapacity benefit, severe disablement allowance and income support paid because of illness or disability.

7.5 The regulations are amended to remove the 50+ element of WTC.

*Amendments to the Tax Credits (Definition and Calculation of Income) Regulations 2002*

7.6 These regulations introduce a tax credits disregard to mirror the Income Tax exemption which covers the Ministry of Defence CEA. The CEA is paid to Armed Forces personnel to provide a continuity of education for their children that would not otherwise be possible if they accompanied their parents on frequent assignments both at home and overseas.

7.7 Section 39 of Part 2 of the Finance Act 2011 inserts a new section 326A into the Income Tax (Earnings & Pensions) Act 2003 to exempt from Income Tax the registration fees payable under a new monitoring scheme, currently in operation in Scotland only, for all those individuals who work with children or vulnerable adults. This change mirrors the tax exemption.

7.8 The tax credits definition of student income includes the Adult Dependents Grant. This minor technical adjustment brings tax credits regulations in line with any adult dependants grant payable in England and Wales.

*Amendments to the Child Tax Credit Regulations 2002*

7.9 These changes up-date legislative references and clarify the status of a child whose 16<sup>th</sup> birthday falls on 31 August.

*Amendments to the Tax Credits (Claims and Notifications) Regulations 2002*

7.10 The regulations are amended to reduce the period that the date of a claim is backdated from the date that it is received by a relevant authority at an appropriate office. For new tax credit claims, the period of backdating is reduced from 93 days to 31 days. The regulations are also amended to reduce the period that the date of notifying certain change in circumstances, which increase the award of one or both tax credits, to a relevant authority at an appropriate office. The period of backdating is reduced from three months to one month.

*Amendments to the Tax Credits (Payments by the Commissioners) Regulations 2002*

7.11 These regulations are amended to reduce from eight weeks to four weeks the period of time when cash cheque payments of tax credits will be made before postponement.

*Amendment to the Tax Credits (Immigration) Regulations 2003*

7.12 This change is as a consequence of the change in the Claims and Notifications Regulations relating to the date of claim. These amendments require the claimant or claimants, who have been accepted as refugees, to make a claim for one or both tax credit within one month of being accepted as a refugee to have their date of claim for one or both tax credits to be treated as made from the date that they claimed asylum in the UK.

*Amendment to the Tax Credits (Residence) Regulations 2003*

7.13 This change provides an up-dated reference to current legislation.

*Amendment to the Tax Credits (Polygamous Marriages) Regulations 2003*

7.14 This change follows the change to the entitlement conditions of WTC (see paragraph 7.1 above) in respect of couples with children.

**8. Consultation outcome**

There is no statutory requirement to consult on these Regulations. However, the Social Security Advisory Committee has considered these regulatory changes under its Memorandum of Understanding with HMT and HMRC.

**9. Guidance**

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](http://www.hmrc.gov/taxcredits/manuals/tctmanual/index.htm).

**10. Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

The legislation does not apply to small business.

**12. Monitoring and review**

These changes implement either Budget and Spending Review announcements or are consequential and technical and do not require further review.

**13. Contact**

Trevor Sanders at HM Revenue & Customs Tel: 020 7147 2272 or email: [trevor.sanders@hmrc.gsi.gov.uk](mailto:trevor.sanders@hmrc.gsi.gov.uk) can answer any queries regarding the instrument, including on behalf of HM Treasury.