

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS UP-RATING REGULATIONS 2012

2012 No. 849

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs on behalf of Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

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

2. **Purpose of the instrument**

These regulations set, from 6th April 2012, various monetary elements and thresholds of the Child Tax Credit (CTC) and the Working Tax Credit (WTC), as announced in the Emergency Budget of 22nd June 2010, the October 2010 Spending Review and the Autumn Statement 2011.

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

These regulations substitute the table in Schedule 2 (prescribing the maximum rates for elements of working tax credit) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) to take account the removal of the 50 plus element by regulation 2(3), (18) and (19) of the draft Tax Credits (Miscellaneous Amendments) Regulations 2012 to be made so as to come into force at the same time as these regulations.

4. **Legislative Context**

4.1 These regulations are made by the Treasury in exercise of the powers conferred upon them by sections 7, 9, 11 to 13 and 65 of the Tax Credits Act 2002 "the Act").

4.2 Section 41 of the Act requires the Treasury, in each tax year, to review certain elements of the tax credits in order to determine whether the elements have retained their value in relation to the general level of prices as estimated by the Treasury in such manner as it considers appropriate. A copy of that review is attached as an annex to this memorandum.

4.3 Section 7 of the Act allows regulations to be made for the imposition of an income test on claimants for both tax credits. The powers conferred in section 7(3)(c) and (d) have been used in this instrument to introduce a new disregard for a prescribed amount for income falls, in addition to the existing disregard in respect of income rises. This disregard can be found in regulation 5 of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002.

4.4 Section 13 of the Act supplements the powers in section 7 of the Act. These powers have been used in the past to determine the rates of WTC and CTC by means of a series of calculations by reference to several thresholds and percentage reductions set out in regulations 7 and 8 of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002. This instrument increases the "withdrawal rate" for WTC and tapers the "family element" immediately after the "child element" of CTC.

4.5 Section 9 of the Act provides for regulations to prescribe the maximum rate at which a person or persons may be entitled to various “elements”. This power has been used in this instrument to set certain elements of the Child Tax Credit found in regulations 7(3) and (4) of the Child Tax Credit Regulations 2002.

4.6 Section 11 of the Act provides for regulations to prescribe the maximum rate at which a person or persons may be entitled to WTC by reference to various “elements”. This power has been used in this instrument to set certain elements of WTC found in Schedule 2 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002.

4.7 Section 12 of the Act provides for the childcare element of WTC. It allows for regulations to set out the proportion of childcare costs that is taken into account, up to a prescribed maximum. This power has been used in this instrument to continue in effect the percentage of childcare costs prescribed in regulation 20(2) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 and regulation 7 of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002. Regulation 5 of this instrument provides that certain amendments made by the Tax Credits Up-rating Regulations 2011 of amounts not being increased in line with inflation continue to have effect in relation to awards of tax credits for the year beginning 6th April 2012.

4.8 Section 66(1) and (2)(a) of the Act provides that an instrument containing regulations prescribing certain monetary amounts reviewed under section 41 (whether or not together with other provisions) must be subject to the draft affirmative procedure. This instrument, in addition to increasing certain monetary amounts reviewed under section 41, also contains provisions amending other elements of the tax credits calculation and is therefore subject to the draft affirmative procedure.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to the Treasury, Chloe Smith MP has made the following statement regarding Human Rights:

In my view the provisions of the Tax credits Up-rating Regulations 2012 are compatible with the European Convention of Human Rights.

7. Policy background

• *What is being done and why*

7.1 The UK has an unprecedented budget deficit. The Government has been clear that it sees reducing this deficit as its most urgent task. The Budget and Spending Review made reforms to the tax credits system and the Government announced further changes in the Autumn Statement. These changes help to tackle the deficit in a fair way to ensure that tax credits are targeted at those who need them most.

7.2 To pursue those objectives the regulations change certain rates and thresholds.

- Increase certain elements of the Working Tax Credit and the Child Tax Credit in line with inflation by 5.2 per cent.

- Introduce an incomes fall disregard of £2,500.
- Taper the family element of Child Tax Credit immediately after the child element.

8. Consultation outcome

None.

9. Guidance

HM Treasury has published the rates for both tax credits for 2012-13 (http://cdn.hm-treasury.gov.uk/as2011_rates_and_thresholds_201213.pdf).

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

10.2 The estimated cost of the increase in total Tax Credits expenditure for 2012-13, which accounts for up-rating together with other policy changes coming in from 6th April 2012, is £290m.

10.3 There is no impact on the public sector.

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

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The rates and thresholds will be reviewed in accordance with Section 41 of the Tax Credit Act 2002 which requires the Treasury, in each tax year, to review certain elements of tax credits in order to determine whether the elements have retained their value in relation to general level of prices.

13. Contact

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Report required under section 41 of the Tax Credits Act 2002. Presented to Parliament pursuant to Section 41(5) of the Tax Credits Act 2002

Section 41 of the Tax Credits Act 2002, requires a review, each tax year, of certain monetary amounts that are prescribed in regulations, to see whether they have retained their value in relation to prices. A report of that review must be laid before each House of Parliament, stating what each amount would have been, if it had retained its value against prices.

The requirement applies to any monetary amount prescribed under the following provisions:

- The income thresholds at which each tax credit will start to be withdrawn: these are prescribed under section 7(1)(a) of the Act.
- The income threshold at which the family element of the child tax credit will start to be withdrawn: this is prescribed under section 13(2) of the Act.
- Any thresholds relating to changes in income between the current tax year and the previous tax year as prescribed under section 7(3).
- The amounts for the various elements of child tax credit as prescribed under section 9 and for those of working tax credit under section 11 of the Act.

The overall level of prices as measured by the change in the Consumer Price Index from September 2010 to September 2011 has increased by 5.2 per cent. All the monetary amounts therefore have retained or increased their value in relation to the general level of prices in the United Kingdom. The table attached shows:

- (a) the current rate (2011-12 tax year) of each element/threshold;
- (b) the proposed rate of each element/threshold for the new tax year (2012-13), as announced in the Chancellor's autumn statement on 29 November 2011.
- (c) the difference between the current rates and the proposed new rates announced in the Autumn Statement, and
- (d) the amount of each element/threshold if the rate had been changed in line with the change in the general level of prices.

Report required under Section 41 of the Tax Credits Act 2002

Section 11 Tax Credits Act 2002 The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002)		2011-12 RATES (£)	2012-13 RATES ANNOUNCED AT PBR (£)	CHANGE (£)	RATE IF CHANGED IN LINE WITH PRICES (£)
Basic Element	Schedule 2	1920	1920	0	2020
Second Adult Element	Schedule 2	1950	1950	0	2055
Lone Parent Element	Schedule 2	1950	1950	0	2055
30 Hour Element	Schedule 2	790	790	0	835
Disability Element	Schedule 2	2650	2790	+140	2790
Severe Disability Element	Schedule 2	1130	1190	+60	1190
50 + Element (16-29 hours)	Schedule 2	1365	removed	-	-
50 + Element (30+hours)	Schedule 2	2030	removed	-	-
Section 9 Tax Credits Act 2002 The Child Tax Credit Regulations 2002					
Family element	Reg 7(3)	545	545	0	575
Child element	Reg 7(4)(c)	2555	2690	+135	2690
Disabled child element	Reg 7(4)(a)	5355	5640	+285	5640
Severely disabled child element	Reg 7(4)(b)	6485	6830	+345	6830
Disabled young person	Reg 7(4)(d)	5355	5640	+285	5640
Severely disabled young person	Reg 7(4)(e)	6485	6830	+345	6830
qualifying young person	Reg 7(4)(f)	2555	2690	+135	2690
Section 7(1)(a) and 13 Tax Credits Act 2002 The Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002					
First income threshold	Reg 3(2) and 7(3)	6420	6420	0	6755
First Income threshold for those entitled to CTC only	Reg 3(3) and 8(3)	15860	15860	0	16685
Second income threshold	Reg 8 (3)	40000	withdrawn	-	-
Income rise disregard	Reg 5	10000	10000	0	10520