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STATUTORY INSTRUMENTS

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**2013 No. 1736**

**TAX CREDITS**

**The Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>11th July 2013</i>
<i>Laid before Parliament</i>		<i>12th July 2013</i>
<i>Coming into force</i>	- -	<i>5th August 2013</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 10, 11, 12 and 65 of the Tax Credits Act 2002<sup>(1)</sup>:

**Citation and commencement**

1. These Regulations may be cited as the Working Tax Credit (Entitlement and Maximum Rate) (Amendment) Regulations 2013 and come into force on 5th August 2013.

**Amendment of regulation 4 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002**

2.—(1) Regulation 4 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002<sup>(2)</sup> (“the 2002 Regulations”) is amended as follows.

(2) In sub-paragraph (c)(i) of the Second condition, Third variation specified in paragraph (1), for “regulation 13(4) to (8)” substitute “regulation 13(4) to (12)”.

**Amendment of regulation 13 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002**

3.—(1) Regulation 13 of the 2002 Regulations is amended as follows.

(2) In paragraph (4) for “paragraphs (5) to (8)” substitute “paragraphs (5) to (12)”.

(3) For paragraph (5) substitute—

“(5) The circumstances specified in this paragraph are where housing benefit is payable under Part 7 of the Contributions and Benefits Act<sup>(3)</sup> to the other member or the other member’s partner and the applicable amount of the person entitled to the benefit includes

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<sup>(1)</sup> 2002 c. 21. Section 11 was amended by paragraph 145 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

<sup>(2)</sup> S.I. 2002/2005. The relevant amending instruments are S.I. 2003/701, 2006/217 and 2012/848.

<sup>(3)</sup> 1992 c. 4.

a disability premium on account of the other member's incapacity or regulation 28(1)(c) of the Housing Benefit Regulations 2006(4) (treatment of child care charges) applies in that person's case."

(4) After paragraph (8) insert—

"(9) The circumstances specified in this paragraph are where, on 31st March 2013, council tax benefit was payable under Part 7 of the Contributions and Benefits Act(5) (as then in force) to the other member or the other member's partner and the applicable amount of the person entitled to the benefit included a disability premium on account of the other member's incapacity.

(10) Paragraph (9) is subject to paragraphs (11) and (12).

(11) Paragraph (9) does not apply unless the other member of the couple was incapacitated (for the purposes of paragraph (1)(c)(i) and regulation 4(1) Second condition, Third variation (c)(i)) solely by virtue of that person or their partner having been in receipt, on 31st March 2013, of council tax benefit which included a disability premium on account of the other member's incapacity, and none of the other circumstances specified in paragraphs (5) to (8) applied on that date.

(12) If—

- (a) the other member of the couple is incapacitated in the circumstances specified in paragraph (9), and
- (b) the couple ceases to be entitled to working tax credit (for any reason) on or after 1st April 2013,

that member of the couple shall not be treated as incapacitated in the circumstances specified in paragraph (9) in relation to any subsequent claim."

*David Evennett*  
*Desmond Swayne*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

11th July 2013

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(4) S.I. 2006/213. There are amendments not relevant to this instrument.

(5) 1992 c. 4. Section 131 of that Act, which provides for entitlement to council tax benefit, was substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992 (c. 14). It was repealed with effect from 1 April 2013 by paragraph 1 of Schedule 14(1) to the Welfare Reform Act 2012 (c. 5) (repeals commenced by S.I. 2013/358, article 8). There have been further amendments to Part 7, none of which are relevant to this instrument.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) (“the 2002 Regulations”).

Regulation 1 provides for citation and commencement.

Regulation 2 amends regulation 4 of the 2002 Regulations to refer to the paragraphs of regulation 13 which have been inserted by regulation 3 of these Regulations.

Regulation 3 amends regulation 13 of the 2002 Regulations to insert new paragraphs (9) to (12) which provide that where council tax benefit was payable to a person or their partner on 31st March 2013 and the applicable amount of the person entitled to the benefit included a disability premium solely on account of the other member’s (i.e. the non-working partner’s) incapacity, the other member is defined as incapacitated for the purposes of the child care element (regulation 13(1)(c)(i)) and the qualifying remunerative work rules (regulation 4(1), Second condition, Third variation (c)(i)).

Council tax benefit was abolished with effect from 1st April 2013 by the Welfare Reform Act 2012 and has been replaced by localised schemes of support for the payment of council tax. The amendments made by these Regulations to the 2002 Regulations ensure that claimants whose entitlement to working tax credit and/or the child care element of working tax credit depended solely on an award of council tax benefit containing a disability premium as part of the applicable amount will continue to be entitled to working tax credit and/or the child care element of working tax credit despite council tax benefit having been abolished. Should claimants cease to be entitled to working tax credit on or after 1st April 2013, they will not be able to rely on the fact that one of them was receiving council tax benefit which included a disability premium on 31st March 2013 if they make a new claim.

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