

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS (MISCELLANEOUS AMENDMENTS) REGULATIONS
2014

2014 No. 658

1. This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) on behalf of HM Treasury (HMT) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This instrument makes changes to regulations to achieve the following outcomes for tax credits purposes, starting on 6 April 2014.
 - 2.2
 - (a) To remove regulation 9(3)(d) following the abolition of Council Tax Benefit on 1 April 2013;
 - (b) to remove entitlement to tax credits for those subject to immigration control, who have had a temporary breakdown in the supply of funds from abroad;
 - (c) to up-date the tax credits income regulations to remove references to 'ordinary residence';
 - (d) to clarify that the tax credits disregards for operational allowances payable to Armed Forces personnel serving in active operational areas are in respect of payments made under a Royal Warrant rather than in respect of payments made by the Secretary of State for Defence;
 - (e) to introduce a disregard for a new entitlement to maternity allowance for women who work for a spouse or civil partner who is engaged in self-employment.
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 and 2003/653. The outcomes in (a), (b), (c), (d) and (e) are self-explanatory.
 - 4.2 These Regulations were signed after the Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-employed Earner) Regulations 2014 (SI 2014/606) were made by the DWP.
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 Council Tax Benefit was abolished with effect from 1 April 2013. These regulations are amended to remove a redundant reference to Council Tax Benefit.

Amendment to the Tax Credits (Immigration) Regulations 2003

7.2 This change removes a provision, which entitles non-European Economic Area (EEA) migrants who are subject to immigration control to receive tax credits for up to 42 days if there is a temporary disruption to the income they receive from abroad to support themselves while they are in this country.

7.3 Non-EEA nationals are not generally entitled to tax credits because they are subject to immigration control, which normally means that it is a condition of their leave to remain in the UK that they do not have recourse to public funds. However, under a special provision, tax credits can be paid for up to a maximum of 42 days where there has been a disruption to the receipt of funds from abroad.

7.4 The 42-day rule is now a very rarely used provision because the affected migrants can have recourse to other private sources of funds, such as credit cards or other forms of credit, to tide them over until resumption of their funds from abroad.

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

7.5 These regulations are amended to reflect the change made in the Finance Act 2013 regarding the removal of references to 'Ordinary Residence' for tax purposes.

7.6 These regulations are also amended to reflect changes made in the Finance Act 2012 which made two small amendments to existing income tax exemptions for the operational allowances payable to Armed Forces personnel serving in active operational areas such as Afghanistan and to the Council Tax Relief.

7.7 These payments are already disregarded in items 3A and 3B in Table 1 in regulation 4 (4) of these regulations but the disregard refers to these

payments being made by the Secretary of State for Defence. This minor technical amendment is to reflect that the payments are now made under a Royal Warrant.

7.8 Finally, these regulations are amended to recognise Article 8 of Directive 2010/41/EU which provides an entitlement to maternity allowance for women who work with a spouse or civil partner who is engaged in self-employment. The effect of this amendment is to add maternity allowance received by these women to the list of sources of income that are disregarded in calculating their income for tax credit purposes.

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.

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 can answer any queries regarding the instrument, including on behalf of HM Treasury.