

2020 No. 1515

TAX CREDITS

CHILDCARE

PAYMENT SCHEME

CHILDREN AND YOUNG PERSONS, ENGLAND

The Tax Credits, Childcare Payments and Childcare (Extended Entitlement) (Coronavirus and Miscellaneous Amendments) Regulations 2020

<i>Made</i>	- - - -	<i>10th December 2020</i>
<i>Laid before Parliament</i>		<i>11th December 2020</i>
<i>Coming into force</i>	- -	<i>14th January 2021</i>

The Treasury, in exercise of the powers conferred by sections 7(8), 10(2), 65(1) and (9) of the Tax Credits Act 2002^(a) and sections 9(2) and (3) and 69(2) of the Childcare Payments Act 2014^(b) make regulations 1, 2, 3 and 4 of these Regulations and the Secretary of State, in exercise of the powers conferred by section 1(2), (3) and (4) of the Childcare Act 2016^(c) makes regulations 1 and 5 of these Regulations.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tax Credits, Childcare Payments and Childcare (Extended Entitlement) (Coronavirus and Miscellaneous Amendments) Regulations 2020.

(2) These Regulations come into force on 14th January 2021.

(3) Regulation 2(5)(d), (e), (f), (g) and (h) has effect in relation to a person who ceases to be a furloughed employee under the Coronavirus Job Retention Scheme or a coronavirus-impacted worker on or after 14th January 2021.

(a) 2002 c. 21. Part 1 (but not Schedule 1 or 3 to that Part) has been repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) from a day to be appointed. Article 1 of S.I. 2019/167 appointed the day for coming into force of section 33(1)(f) of the Welfare Reform Act and the repeal of Part 1 of the Tax Credits Act 2002 as 1st February 2019, save for the cases referred to in Article 3 of that instrument. Section 67 defines “prescribed” as meaning “prescribed by regulations made by the Treasury”.

(b) 2014 c. 28.

(c) 2016 c. 5.

(4) In this regulation “furloughed employee under the Coronavirus Job Retention Scheme” and “coronavirus-impacted worker” have the meanings given by regulation 2 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (interpretation)(a).

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

2.—(1) The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b) are amended as follows.

(2) In regulation 4 (entitlement to basic element of Working Tax Credit: qualifying remunerative work)—

(a) in paragraph (4)—

(i) omit the “and” at the end of sub-paragraph (b),

(ii) at the end of sub-paragraph (c)(c) after the comma insert “and”, and

(iii) after sub-paragraph (c) insert—

“(d) any period of absence from work resulting from that person—

(i) having been instructed by NHS Test and Trace, to self-isolate due to coronavirus(d); or

(ii) having been instructed not to attend work as a direct consequence of restrictions imposed under any enactment as a consequence of coronavirus.”, and

(b) after paragraph (6) insert—

“(7) In this regulation “NHS Test and Trace” means the service introduced by the National Health Service in England to trace the spread of coronavirus or any service established in Scotland, Wales or Northern Ireland for a similar purpose.”.

(3) In regulation 5(3) (time off in connection with childbirth, parental bereavement or adoption)(e) after the words “qualifying remunerative work”, insert “, or treated under regulation 7E as being engaged in such work,”.

(4) In regulation 6(3) (periods of illness, incapacity for work or limited capability for work)(f) after the words “qualifying remunerative work”, insert “, or treated under regulation 7E as being engaged in such work,”.

(5) In regulation 7E (alteration in hours worked due to coronavirus)(g)—

(a) in paragraph (2)—

(i) after sub-paragraph (a) insert—

“(aa) a person (AA), whether or not a member of a couple, who—

(i) ceases to be a furloughed employee under the Coronavirus Job Retention Scheme at a date before the date at which that Scheme ceases,

(ii) within four weeks of the date of ceasing to be a furloughed employee, has an offer of work which satisfies the Second condition of regulation 4(1),

(iii) accepts that offer, and

-
- (a) S.I. 2002/2005. Relevant amending instruments are S.I. 2003/701, 2020/534 and 2020/941. The definitions of “furloughed employee” and “coronavirus-impacted worker” were inserted by regulation 2 of S.I. 2020/534 and the definition of furloughed employee was subsequently amended by regulation 3 of S.I. 2020/941.
- (b) S.I. 2002/2005 (“the Entitlement Regulations”), relevant amending instruments are S.I. 2003/701, 2020/534 and 2020/941.
- (c) Sub-paragraph (c) of paragraph (4) was inserted by regulation 2 of S.I. 2020/534.
- (d) “Coronavirus” is defined by regulation 2 of the Entitlement Regulations as meaning severe acute respiratory syndrome coronavirus 2. That definition was inserted by regulation 2 of S.I. 2020/534.
- (e) Regulation 5 was substituted by regulation 5 of S.I. 2003/701. This regulation has been amended by subsequent instruments but none of the amendments are relevant for the purposes of this instrument.
- (f) Regulation 6 was substituted by regulation 6 of S.I. 2003/701. This regulation has been amended by subsequent instruments but none of the amendments are relevant for the purposes of this instrument.
- (g) Regulation 7E was inserted by regulation 2 of S.I. 2020/534.

- (iv) is subsequently notified by AA’s employer that AA is not required to work all, or any, of the hours that AA is contracted to work, providing that that reduction is not permanent and is due to coronavirus;” and
- (ii) after sub-paragraph (d) insert—
 - “(e) a person (C), whether or not a member of a couple, who—
 - (i) has returned to qualifying remunerative work following a period during which C has been treated as being engaged in qualifying remunerative work by virtue of regulation 5 or regulation 6 (“a statutory absence”),
 - (ii) before that period of statutory absence, worked at least 16 hours per week, and
 - (iii) is unable to work at least 16 hours immediately after C’s return to work providing that that reduction is not permanent and is due to coronavirus;”,
- (b) in paragraph (3)—
 - (i) in sub-paragraph (a) for “paragraph (2)(b)(c) or (d)” substitute “paragraph (2)(aa), (b), (c), (d) or (e)”, and
 - (ii) in sub-paragraph (b) for the words “or paragraph (2)(d)” substitute “paragraph (2)(d) or paragraph (2)(e)”,
- (c) in paragraph (4)—
 - (i) in the opening words after “ceases to be a furloughed employee under the Coronavirus Job Retention Scheme” insert “in accordance with paragraph (5)(a),”,
 - (ii) for sub-paragraph (a) substitute—
 - “(a) the hours that P works do not satisfy the variation in the Second condition of regulation 4(1) which P satisfied immediately before P was furloughed under that Scheme, but it is P’s intention that P will satisfy that variation by the end of the period of eight weeks, beginning with the date on which P ceases to be a furloughed employee—
 - (i) where P does satisfy that variation by the end of that period, P will be treated as meeting the condition of entitlement for this Part; and
 - (ii) where P does not satisfy that variation at the end of that period, for the purposes of the conditions of entitlement for the purposes of this Part, P will be treated as being engaged in qualifying remunerative work for the four week period which begins immediately after the end of that eight-week period;”,
 - and
 - (iii) in sub-paragraph (b) for the words “at any time during the period of eight weeks beginning with the date on which P ceases to be a furloughed employee under that Scheme—” substitute “the hours that P works satisfy the variation which P satisfied immediately before P was furloughed under that Scheme, but during the period of eight weeks beginning with the date on which P ceased to be a furloughed employee—”,
- (d) after paragraph (4) insert—

“(4A) Where paragraph (2)(a) applies, at the date at which a person ceases to be a furloughed employee under the Coronavirus Job Retention Scheme in accordance with paragraph (5)(b) or (c), that person will be treated as being engaged in qualifying remunerative work for the four-week period which begins immediately after that person ceases to be a furloughed employee.”,
- (e) for paragraph (5) substitute—

“(5) For the purposes of paragraph (4), a person ceases to be a furloughed employee under the Coronavirus Job Retention Scheme on the earlier of—

- (a) the day on which the Coronavirus Job Retention Scheme^(a) ceases;
 - (b) the day on which that person ceases to undertake work; or
 - (c) the date on which there is a permanent reduction in the hours worked, such that that person is unable to satisfy the variation in the Second condition of regulation 4(1) which that person satisfied immediately before that person became a furloughed employee under the Coronavirus Job Retention Scheme.”.
- (f) in paragraph (6)—
- (i) for the words from “Where paragraph (2)(b), (c) or (d) applies,” to the end of sub-paragraph (a), substitute—
- “(6) Where a person (P) ceases to be a coronavirus-impacted worker in accordance with paragraph (7)(a), if—
- (a) the hours that P works do not satisfy the variation in the Second condition of regulation 4(1) which P satisfied immediately before P became a coronavirus-impacted worker, but it is P’s intention that P will satisfy that variation by the end of the period of eight weeks, beginning with the date on which P ceases to be a coronavirus-impacted worker—
 - (i) where P does satisfy that variation by the end of that period, P will be treated as meeting the condition of entitlement for this Part; and
 - (ii) where P does not satisfy that variation at the end of that period, for the purposes of the conditions of entitlement for the purposes of this Part, P will be treated as being engaged in qualifying remunerative work for the four week period which begins immediately after the end of that eight-week period;” and
 - (ii) in sub-paragraph (b) for the words “at any time during the period of eight weeks beginning with the date on which P ceases to be a coronavirus-impacted worker—” substitute “the hours that P works do not satisfy the variation which P satisfied immediately before P became a coronavirus- impacted worker, and during the period of eight weeks beginning with the date on which P ceased to be a coronavirus-impacted worker—”,
- (g) after paragraph (6) insert—
- “(6A) Where a person ceases to be a coronavirus-impacted worker in accordance with paragraph (7)(b) or (c), that person will be treated as being engaged in qualifying remunerative work for the four-week period which begins immediately after that person ceases to be a coronavirus-impacted worker.”, and
- (h) for paragraph (7) substitute—
- “(7) For the purposes of paragraph (6) and (6A) a person who is within paragraph (2)(aa), (2)(b), (2)(c), (2)(d) or (2)(e) ceases to be a coronavirus-impacted worker^(b) on the earliest of—
- (a) the day on which the Coronavirus Job Retention Scheme^(c) ceases;
 - (b) the day on which that person ceases to undertake work, and
 - (c) the date on which there is a permanent reduction in the hours worked such that that person is unable to satisfy the variation in the Second condition of regulation 4(1) which that person satisfied immediately before that person became a coronavirus-impacted worker.”.

(a) The term “Coronavirus Job Retention Scheme” is defined in regulation 2 of the Entitlement Regulations. That definition was inserted by regulation 2 of S.I. 2020/534.

(b) The term “coronavirus-impacted worker” is defined in regulation 2 of the Entitlement Regulations as having the same meaning as in regulation 7E(3). That definition was inserted by regulation 2 of S.I. 2020/534.

(c) The term “Coronavirus Job Retention Scheme” is defined in regulation 2 of the Entitlement Regulations. That definition was inserted by regulation 2 of S.I. 2020/534.

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

3.—(1) The Tax Credits (Definition and Calculation of Income) Regulations 2002(a) are amended as follows.

(2) In regulation 2(2) (interpretation), in the definition of “coronavirus support scheme”(b) in paragraph (f) after the words “the tax year 2020-2021” insert “or 2021-2022”.

(3) In regulation 19 (general disregards in the calculation of income)(c) in Table 6 (sums disregarded in the calculation of income)—

(a) in entry 37—

- (i) omit the words “in respect of England or under any similar scheme established in respect of Wales, Scotland or Northern Ireland”; and
- (ii) after the words “established on 1st September 2020” add “or the scheme known as the Test and Trace Support Payment scheme established on 28th September 2020 in respect of England or any other scheme established in any part of the United Kingdom for the purpose of providing financial support to people who are required to self-isolate due to coronavirus and cannot work from home”.

(b) after entry 37 insert—

“38. Any payment, made by or on behalf of the Scottish Ministers(d) under Part 5 of the Welfare Food (Best Start Foods) (Scotland) Regulations 2019(e).”.

(c) after entry 38 insert—

“39. Any payment, funded by the Scottish Government, for the purpose of supporting women affected by complications after mesh implant surgery.”.

(d) after entry 39 insert—

“40. Any payment, made under the scheme known as the Covid Winter Grant Scheme in respect of England, or any other scheme established by the Northern Ireland Executive, the Scottish Government or the Welsh Government for the purpose of providing financial support to families and vulnerable individuals to assist with the cost of food and utilities over the same period.”.

Amendment of the Childcare Payments (Eligibility) Regulations 2015

4.—(1) The Childcare Payments (Eligibility) Regulations 2015(f) are amended as follows.

(2) In regulation 2 (interpretation), at the appropriate place insert—

““coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“coronavirus support scheme” means—

- (a) any scheme in relation to which HMRC have functions by virtue of a direction made under section 76 of the Coronavirus Act 2020 (HMRC functions)(g);
- (b) the scheme known as the Small Business Grant Fund established in response to coronavirus;
- (c) any scheme established in the tax year 2020-21 in response to coronavirus to support the fishing industry;
- (d) the scheme known as the Retail, Hospitality and Leisure Grant Fund established in response to coronavirus;
- (e) the scheme known as the Newly Self-Employed Hardship Fund established by the Scottish Ministers in the tax year 2020-2021 in response to coronavirus; and

(a) S.I. 2002/2006 (“the Income Regulations”), relevant amending instruments are S.I. 2006/766, 2020/534 and 2020/941.

(b) The definition of “coronavirus support scheme” was inserted by regulation 3 of S.I. 2020/534.

(c) Entry 37 in Table 6 in regulation 19 was inserted by regulation 2(3) of S.I. 2020/941.

(d) The term “Scottish Ministers” is defined in regulation 2 of the Income Regulations. That definition was inserted by regulation 3 of S.I. 2019/534.

(e) S.S.I. 2019/193.

(f) S.I. 2015/448, relevant amending instruments are S.I. 2016/793, 2016/1021, 2017/1101, 2020/297 and 2020/354.

(g) 2020 c. 7.

- (f) any other support scheme established in the tax year 2020-21 or 2021-2022 in response to coronavirus; and

“Scottish Ministers” has the meaning given by section 44(2) of the Scotland Act 1998(a);”.

(3) In regulation 9 (the requirement to be in qualifying paid work) in paragraph (1) at the end of sub-paragraph (b)(ii), insert—

“; or,

- (c) the person is in paid work as either an employed or self-employed person, the person’s expected income does not meet the requirements of sub-paragraph (a) or (b) due to coronavirus, and the person—

- (i) is receiving payments under a coronavirus support scheme; or

- (ii) has made a claim for and is reasonably anticipating receiving payments under a coronavirus support scheme; or

- (iii) is intending to make a claim under a coronavirus support scheme, with the reasonable expectation of the claim being agreed; or

- (iv) where the person is employed, their employer is claiming a grant under a coronavirus support scheme to cover a proportion of the person’s normal earnings”.

(4) In regulation 15 (income not to exceed a certain level), omit the words ““coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);”.

Amendment of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016

5.—(1) The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016(b) are amended as follows.

(2) In regulation 2(1) (interpretation), at the appropriate place insert—

““coronavirus support scheme” means

- (a) any scheme in relation to which the Commissioners(c) have functions by virtue of a direction made under section 76 of the Coronavirus Act 2020 (HMRC functions);

- (b) the scheme known as the Small Business Grant Fund established in response to coronavirus;

- (c) any scheme established in the tax year 2020-21 in response to coronavirus to support the fishing industry;

- (d) the scheme known as the Retail, Hospitality and Leisure Grant Fund established in response to coronavirus;

- (e) the scheme known as the Newly Self-Employed Hardship Fund established by the Scottish Ministers in the tax year 2020-2021 in response to coronavirus; and

- (f) any other support scheme established in the tax year 2020-21 or 2021-2022 in response to coronavirus; and

“Scottish Ministers” has the meaning given by section 44(2) of the Scotland Act 1998);”.

(3) In regulation 5 (the requirement to be in qualifying paid work) in paragraph (1) at the end of sub-paragraph (b)(ii), insert—

“; or,

(a) 1998 c. 46. Section 44 has been amended by section 12 of the Scotland Act 2012 (c. 11).

(b) S.I. 2016/1257 (“the Childcare Regulations”), relevant amending instruments are S.I. 2018/794, 2020/354 and 2020/712.

(c) The term “the Commissioners” is defined in regulation 2 of the Childcare Regulations as meaning the Commissioners for Her Majesty’s Revenue and Customs.

- (c) a person is in paid work as either an employed or self-employed person, the person's expected income does not meet the requirements of sub-paragraph (a) or (b), due to coronavirus, and the person
 - (i) is receiving payments under a coronavirus support scheme; or
 - (ii) has made a claim for and is reasonably anticipating receiving payments under a coronavirus support scheme, or
 - (iii) is intending to make a claim under a coronavirus support scheme with the reasonable expectation of the claim being agreed; or
 - (iv) where the person is employed, their employer is claiming a grant under a coronavirus support scheme to cover a proportion of the person's normal earnings".

Rebecca Harris
James Morris

10th December 2020

Two of the Lords Commissioners of Her Majesty's Treasury

Signed by the authority of the Secretary of State for Education

Vicky Ford

Parliamentary Under Secretary of State for Children and Families
Department for Education

10th December 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of statutory instruments in relation to tax credits (social security benefits), childcare payments and the Department for Education's early years extended entitlement scheme (all of which are administered by the Commissioners for Revenue and Customs). The amendments are necessary as a consequence of coronavirus and the Coronavirus Job Retention Scheme (established under a direction given by the Chancellor of the Exchequer under sections 71 and 76 of the Coronavirus Act 2020 (c. 7)). These Regulations also make amendments to the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) to disregard certain payments from being taken into account as income.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 amends the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) ("the Entitlement Regulations"). Paragraph (2) provides for any period of time during which a person is unable to work, whether due to having to self-isolate or as a consequence of a lockdown, to be disregarded when calculating the hours a person normally works for the purposes of working tax credit.

Regulations 5 and 6 of the Entitlement Regulations treat a person as being engaged in qualifying remunerative work where that person is absent from work in connection with childbirth, adoption or bereavement in relation to a child (regulation 5) or due to being unwell (regulation 6) providing that immediately before the period in question that person had been in qualifying remunerative work. Paragraphs (3) and (4) of regulation 2 ensure that this treatment is extended to persons who are treated as working by virtue of regulation 7E of the Entitlement Regulations.

Paragraph (5) amends regulation 7E of the Entitlement Regulations which provides for situations in which a person is treated as being engaged in qualifying remunerative work even where that person has been furloughed under the Coronavirus Job Retention Scheme or is a coronavirus-impacted worker (as defined in regulation 7E(3)). Paragraph 5(a) extends the categories of persons who are treated as coronavirus-impacted workers. Paragraph 5(c) amends paragraph (4) of regulation 7E of the Entitlement Regulations which sets out the period for which a person will be treated as being in remunerative work once that person ceases to be a furloughed employee as a consequence of the closure of the Coronavirus Job Retention Scheme. Paragraph 5(d) inserts a

new paragraph (4A) into regulation 7E which makes similar provision for cases where a person ceases to be furloughed employee under that Scheme for any other reason. Paragraph 5(e) substitutes paragraph (5) of regulation 7E of the Entitlement Regulations to specify the circumstances in which a person ceases to be a furloughed employee. Paragraph 5(f), 5(g) and 5(h) make similar amendments in relation to persons who cease to be coronavirus-impacted workers.

Regulation 3 amends the Tax Credits (Definition and Calculation of Income Regulations) 2002 (S.I. 2002/2006) (“the Income Regulations”). Paragraph (2) amends the definition of “coronavirus support scheme” to include a reference to the tax year 2021-22. Paragraph (3) amends Table 6 in regulation 19 which sets out the payments that are to be disregarded in calculating a person’s income for the purposes of tax credits. Paragraph 3(a) amends the wording of entry 37 to include the Test and Trace Support Payment scheme which provides financial support to a person who is required to self-isolate due to coronavirus. Paragraph 3(b) and 3(c) insert entries in respect of payments made by the Scottish Ministers for the purpose of assisting with the costs of buying healthy foods for children and supporting women affected by complications after mesh implant surgery. Paragraph 3(d) inserts an entry in respect of payments made under the scheme known as the Covid Winter Grant Scheme or similar schemes established by the Devolved Administrations.

Regulation 4 amends the Childcare Payments (Eligibility) Regulations 2015 (S.I. 2015/448) (“the Eligibility Regulations”). Paragraph (2) inserts definitions of “coronavirus” and “coronavirus support scheme” into regulation 2 of the Eligibility Regulations and as a consequence paragraph (4) omits the definition of “coronavirus” from regulation 15 of the Eligibility Regulations. The definition of “coronavirus support scheme” includes any coronavirus related job support scheme established under a direction made under section 76 of the Coronavirus Act 2020 (c. 7) and is identical to that in the Income Regulations. Paragraph (3) amends regulation 9 of the Eligibility Regulations so that a person who fulfils the new conditions is in qualifying paid work. The conditions are that a person’s income has fallen below the relevant threshold (defined in paragraph (6) of regulation 9 of the Eligibility Regulations) due to coronavirus and that person is either receiving payments, or has applied for and is reasonably expecting a payment, is intending to make a claim which that person reasonably expects to be accepted, or whose employer has made such a claim under the Coronavirus Job Retention Scheme (established under section 76 of the Coronavirus Act 2020) to cover that person’s normal income.

Regulation 5 amends the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (S.I. 2016/1257) (“the Childcare Regulations”). Paragraph (2) inserts a definition of “coronavirus support scheme” into regulation 2 of the Childcare Regulations. The term “coronavirus support scheme” will include any coronavirus related job support scheme established under a direction made under section 76 of the Coronavirus Act 2020 and is identical to the definition in the Eligibility Regulations and the Income Regulations. Paragraph (3) amends regulation 5 of the Childcare Regulations so that a person who fulfils the conditions is in paid work. The conditions are that a person’s income has fallen below the relevant threshold (defined in paragraph (6) of regulation 5 of the Eligibility Regulations) due to coronavirus and that person is either receiving payments, or has applied for and is reasonably expecting a payment, is intending to make a claim which that person reasonably expects to be accepted, or whose employer has made such a claim under the Coronavirus Job Retention Scheme (established under section 76 of the Coronavirus Act 2020) to cover that person’s normal income.

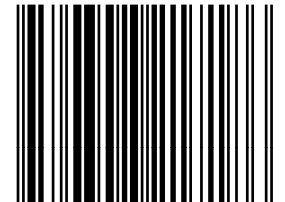
A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

£6.90

UK202012101028 12/2020 19585

<http://www.legislation.gov.uk/id/uksi/2020/1515>

ISBN 978-0-34-821718-6



9 780348 217186