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## EXPLANATORY NOTE

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

These Regulations amend a number of statutory instruments in relation to the social security benefits administered by Her Majesty's Commissioners for Revenue and Customs (tax credits, child benefit and guardian's allowance) and childcare payments which are also administered by Her Majesty's Commissioners for Revenue and Customs.

Regulation 1 provides for citation and commencement.

Regulation 2 makes a consequential amendment to regulation 14 of the Working Tax Credits (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) to reflect the introduction of disability assistance in Scotland by the Social Security (Scotland) Act 2018 (2018 asp. 9).

Regulation 3 amends Table 6 in regulation 19 of the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006). This Table specifies sums that are to be disregarded in the calculation of income for the purposes of tax credits. Regulation 3 inserts a number of new items into the Table, including new benefits or payments paid by the Scottish Government.

Regulation 4 makes two amendments to the Child Tax Credit Regulations 2002 (S.I. 2002/2007). It amends the definition of "qualifying young person" in regulation 5 of those Regulations to include a young person who commences home education over the age of 16, providing that that person has received a statement of special education needs and the local authority has assessed a programme of home education as being suitable for that person's needs. Regulation 6 makes an identical amendment to regulation 3 of the Child Benefit (General) Regulations 2006 (S.I. 2006/223).

Regulation 4 also amends regulation 8 to reflect the introduction of disability assistance in Scotland. Regulation 8 prescribes the conditions as to when a child or qualifying young person will be treated as disabled or severely disabled for the purposes of section 9 of the Tax Credits Act 2002 (c. 21).

Regulation 5 makes two consequential amendments to regulation 26A of the Tax Credits (Claims and Notification) Regulations 2002 (S.I. 2002/2014). The first amendment reflects changes to child tax credit that were introduced by the Welfare Reform and Work Act 2016 (c. 7). As a consequence of the Welfare Reform and Work Act 2016 only one disability element is payable with the amount of the element varying due to the severity of the disability. The second amendment reflects the introduction of disability assistance in Scotland.

Regulation 7 makes two amendments to the Guardian's Allowance (General) Regulations 2003 (the principal Regulations) (S.I. 2003/495). Regulation 7(2) amends regulation 7 of the principal Regulations so that where a parent is serving a custodial sentence of at least two years and the other parent of the child is deceased, the parent who is serving a prison term will be treated as "being in prison" for the purposes of guardian's allowance irrespective of whether the sentence was handed down before or after the death of the deceased parent. Regulation 7(3) amends regulation 9 of the principal Regulations so that a person is not prohibited from claiming guardian's allowance in respect of children whose deceased parents were born in the European Economic Area or in Switzerland.

Regulation 8 amends the Childcare Payments Regulations 2015 ("the principal Regulations") (S.I. 2015/522). Regulation 8(2) updates the definition of "regulated or approved childcare" in regulation 3 to reflect changes to regulatory schemes in Wales and Northern Ireland for nannies and other home childcare providers.

Regulation 8(3) amends regulation 17 of the principal Regulations to extend the circumstances in which a compensatory payment under section 62 of the Childcare Payments Act 2014 (c. 28) can be made to a person who cannot receive a top-up payment.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 8(4) amends regulation 18 of the principal Regulations by inserting new paragraph (3A) which sets out a new condition which, if met, permits the Commissioners for Her Majesty's Revenue and Customs to make an account restriction order. The condition is that a person (P) wishes to apply for a code for 30 hours free childcare but cannot do so as another person (A) already holds a childcare account for that child. Regulation 11 of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (S.I. 2016/1257) provides that where there is an active childcare account under section 17(3) of the Childcare Payments Act 2014, a code for 30 hours free childcare can only be held by the person who holds the childcare account.

Regulation 9 amends the Childcare Payments (Eligibility) Regulations 2015 (S.I. 2015/448) to update the definition of "disability living allowance" to reflect the introduction of disability assistance in Scotland.

A full impact statement has not been produced for regulations 2 to 7 because no impact on the private or voluntary sectors is foreseen. In relation to regulations 8 and 9 a full impact assessment of the effect that the childcare payments scheme will have on the costs of business and the voluntary sector was published on 10 June 2014 alongside the draft Childcare Payments Bill and was updated on 20th November 2014 and again on 30 March 2017. These are available from the gov.uk website at <https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment-march-2017>.