

2023 No. 179

TAX CREDITS

SOCIAL SECURITY

**The Tax Credits and Child Benefit (Miscellaneous
Amendments) Regulations 2023**

<i>Made</i> - - - -	<i>21st February 2023</i>
<i>Laid before Parliament</i>	<i>22nd February 2023</i>
<i>Coming into force</i> - -	<i>15th March 2023</i>

The Treasury, in exercise of the powers conferred by sections 7(8) and (9), 10(2), 12, 65(1) and (7) of the Tax Credits Act 2002(a) and section 142(2) of the Social Security Contributions and Benefits Act 1992(b) make regulations 1, 2, 3 and 6 and the Commissioners for His Majesty's Revenue and Customs, in exercise of the powers conferred by sections 5(1)(i), (1A), (2)(a) and (g) and 189(1), (4) and (6) of the Social Security Administration Act 1992(c), sections 9(1) and (4) and 10(3) and (6) of the Social Security Act 1998(d), sections 5(1)(j), (1A), (2)(a) and (g) and 165(1), (4), (6) and (11A) of the Social Security Administration (Northern Ireland) Act 1992(e) and articles 10(1) and (4) and 11(3) and (6) of the Social Security (Northern Ireland) Order 1998(f), now exercisable by them(g), make regulations 1, 4 and 5.

Citation and commencement

1. These Regulations may be cited as the Tax Credits and Child Benefit (Miscellaneous Amendments) Regulations 2023 and come into force on 15th March 2023.

-
- (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 Part 1 (but not Schedule 1 or 3 to that Part) has been repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) from 1st February 2019, as appointed by Article 2 of S.I. 2019/167, save for the cases referred to in Article 3 of that instrument. Section 67 defines "prescribed" as "prescribed by regulations". Section 67 has been amended, but the amendment is not relevant for the purposes of the instrument.
- (b) 1992 c. 4. Section 142 was substituted by 1(2) of the Child Benefit Act 2005 (c. 6).
- (c) 1992 c. 5. Section 5(1A) was inserted by section 99 of the Welfare Reform Act 2012. Section 189(1), (4) and (6) was amended by paragraph 109 of Schedule 7 and by Schedule 8 to the Social Security Act 1998 (c. 14). Subsection (1) was subsequently amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2) and by Schedule 6 to the Tax Credits Act 2002. Section 191 defines "prescribe" as meaning "prescribe by regulations".
- (d) 1998 c. 14. Section 84 defines "prescribe" as meaning "prescribe by regulations".
- (e) 1992 c. 8. Section 5(1A) was inserted by article 104(2) of S.I. 2015/2006 (N.I.). Subsection (1) of section 165 was amended by paragraph 49(2) of Schedule 3 to S.I. 1999/671. Subsection (6) was amended by paragraph 1 of Schedule 7 to S.I. 1998/1506 (N.I. 10). Subsection (11A) was inserted by paragraph 49(4) of Schedule 3 to S.I. 1999/671. Section 167 defines "prescribe" as meaning "prescribe by regulations".
- (f) S.I. 1998/1506 (N.I. 10).
- (g) The powers of the Secretary of State under the Social Security Administration Act 1992, the Social Security Administration (Northern Ireland) Act 1992, Chapter 2 of Part 1 of the Social Security Act 1998 and Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998, so far as relating to child benefit and guardian's allowance, were transferred to the Commissioners of Inland Revenue by section 50(1) and (2) of the Tax Credits Act 2002. By section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11) the powers and functions of the Commissioners of Inland Revenue were transferred to the Commissioners for His Majesty's Revenue and Customs.

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

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

(2) In regulation 6 (trading income)(b) in the definition of “taxable profits”, at the end insert “, and any amount of transition profits for the tax year 2023-24 under Step 5 of paragraph 70(2) and paragraphs 72 and 73 of Schedule 1 (abolition of basis periods) to the Finance Act 2022(c).”.

(3) In regulation 7(1) (social security income)(d)—

(a) after sub-paragraph (aa) insert—

“(ab) under regulations made under section 28 of the Social Security (Scotland) Act 2018(e);”;

(b) omit the “and” at the end of sub-paragraph (c); and

(c) after sub-paragraph (c) insert—

“(ca) by the Scottish Ministers(f) in respect of the non-payment of a payment which ought to have been made under the regulations mentioned in sub-paragraph (ab); and”.

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

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

(2) In regulation 4(1) (entitlement to basic element of Working Tax Credit: qualifying remunerative work)(h)—

(a) in the third variation of the Second condition, at the end of sub-paragraph (c)(iv) after the semi-colon, insert “or”; and

(b) after sub-paragraph (c)(iv) insert—

“(v) entitled to carer’s assistance given in accordance with regulations made under section 28 of the Social Security (Scotland) Act 2018;”.

(3) In regulation 13(1)(c) (entitlement to child care element of working tax credit)(i)—

(a) at the end of sub-paragraph (iv) insert “; or”; and

(b) after sub-paragraph (iv) insert—

“(v) is entitled to carer’s assistance given in accordance with regulations made under section 28 of the Social Security (Scotland) Act 2018;”.

Amendment of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003

4.—(1) The Child Benefit and Guardian’s Allowance (Administration) Regulations 2003(j) are amended as follows.

(a) S.I. 2002/2006, amended by S.I. 2016/978 and 2020/941. There are other amending instruments, but none is relevant.

(b) Regulation 6 was substituted by regulation 2 of S.I. 2020/941.

(c) 2022 c. 3.

(d) Regulation 7(1)(aa) was inserted by regulation 2 of S.I. 2016/978.

(e) 2018 asp 9.

(f) “Scottish Ministers” is defined in regulation 2 of the Tax Credits (Definition and Calculation of Income) Regulations 2002 as having the same meaning as in section 44(2) of the Scotland Act 1998 (c. 46). The definition was inserted by S.I. 2020/534.

(g) S.I. 2002/2005, amended by S.I. 2003/701, 2012/848 and 2013/1736. There are other amending instruments, but none is relevant.

(h) The third variation of the Second condition was inserted by regulation 2 of S.I. 2012/848 and amended by regulation 2 of S.I. 2013/7136.

(i) Regulation 13(1)(c) was inserted by regulation 12 of S.I. 2003/701 and sub-paragraph (c)(iv) was inserted by regulation 2 of S.I. 2012/848.

(j) S.I. 2003/492 amended by S.I. 2004/1240 and 2006/203. There are other amending instruments, but none is relevant.

(2) In regulation 7 (evidence and information)—

(a) for paragraph (1), substitute—

“(1) The Board(a) may require the person making the claim for child benefit or guardian’s allowance to supply such information or evidence in connection with the claim, or any questions arising out of it, as the Board considers reasonable.”;

(b) in paragraph (2) omit “certificates, documents,”; and

(c) omit paragraph (3)(b).

Amendment of the Child Benefit and Guardian’s Allowance (Decisions and Appeals) Regulations 2003

5.—(1) The Child Benefit and Guardian’s Allowance (Decisions and Appeals) Regulations 2003(c) are amended as follows.

(2) In regulation 5 (revision of decisions within a prescribed period or on an application)—

(a) in paragraph (2)—

(i) omit the “or” at the end of sub-paragraph (a);

(ii) in sub-paragraph (b) after “application for revision” insert “, except where the application relates to an anticipatory superseding decision,”

(iii) after sub-paragraph (b)(iii) insert—

“; or

(c) subject to regulation 6 (late applications for revision of decisions), where notification of an anticipatory superseding decision is given, an application for the revision of that decision is received by the Board(d), at the appropriate office(e), at any time within the period starting with the date of the notification of the anticipatory superseding decision and ending one month after that decision takes effect in accordance with regulation 16(5) (date as from which superseding decisions take effect).”; and

(b) after paragraph (3) insert—

“(4) In this regulation “anticipatory superseding decision” means a decision made in accordance with regulation 13(2)(a)(ii) (cases and circumstances in which superseding decisions may be made).”.

(3) In regulation 6 (late applications for revision of decisions)—

(a) in paragraph (1) after “regulation 5(2)(b)(i) to (iii)” insert “or (c)”;

(b) in paragraph (3)(c) after “5(2)(b)” insert “or (c), as the case may be”; and

(c) in paragraph (5) after “regulation 5(2)(b)(i) to (iii)” insert “or (c), as the case may be”.

Amendment of the Child Benefit (General) Regulations 2006

6.—(1) The Child Benefit (General) Regulations 2006(f) are amended as follows.

-
- (a) “The Board” is defined in regulation 2 as meaning the Commissioners for Her Majesty’s Revenue and Customs. This definition was inserted by regulation 2 of S.I. 2006/203.
- (b) Paragraph (3) of regulation 7 was inserted by regulation 2 of S.I. 2004/1240 and amended by regulation 2 of S.I. 2006/203.
- (c) S.I. 2003/916, amended by S.I. 2009/3268 There are other amending instruments but none is relevant.
- (d) “The Board” is defined in regulation 2 as meaning the Commissioners of Inland Revenue. By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2002, a reference to the Commissioners of Inland Revenue however expressed shall be taken as a reference to the Commissioners for Revenue and Customs.
- (e) “The appropriate office” is defined in regulation 2 as meaning Waterview Park, Washington, Tyne and Wear or any other office specified in writing by the Board. The definition was substituted by regulation 4 of S.I. 2009/3268.
- (f) S.I. 2006/223, amended by 2012/818, 2014/1231, 2016/360 and 2021/1286. There are other amending instruments but none is relevant.

(2) In regulation 1(3) (citation, commencement and interpretation) in the definition of “approved training”^(a)—

(a) in sub-paragraph (b) after ““Foundation Apprenticeships””, insert “or “Jobs Growth Wales+””; and

(b) in sub-paragraph (c) omit ““Employment Fund activity” or”.

*Steve Double
Amanda Solloway*

21st February 2023

Two of the Lords Commissioners of His Majesty’s Treasury

*Jonathan Athow
Myrtle Lloyd*

21st February 2023

Two of the Commissioners for His Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of statutory instruments in relation to tax credits and child benefit.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 amends regulations 6 and 7 of the Tax Credits (Definition and Calculation of Income) Regulations 2002 (“the Definition and Calculation Regulations”) (S.I. 2002/2006). Regulation 6 of the Definition and Calculation Regulations defines a claimant’s trading income for the purpose of calculating entitlement to tax credits. Regulation 2 of this instrument amends the definition of “taxable profits” in regulation 6 of the Definition and Calculation Regulations. Regulation 2 also amends regulation 7 of the Definition and Calculation Regulations to ensure that any payment of carer’s assistance made under regulations under section 28 of the Social Security (Scotland) Act 2018 (asp 9) is treated as income in the calculation of tax credit entitlement.

Regulation 3 amends regulations 4 and 13 of the Working Tax Credits Regulations 2002 (S.I. 2002/2005) (“the Entitlement Regulations”). Regulation 4 of the Entitlement Regulations defines what constitutes qualifying remunerative work for the purpose of entitlement to the basic element of working tax credit. Regulation 3 of this instrument amends regulation 4 to insert a reference to carer’s assistance. Regulation 13 of the Entitlement Regulations defines the conditions for entitlement to the child-care element of working tax credit. Regulation 3 of this instrument amends regulation 13 to insert a reference to payment of carer’s assistance.

Regulation 4 of this instrument amends regulation 7 of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003 (S.I. 2003/492) in relation to the information that HMRC may request in support of a claim for child benefit. In particular, regulation 4 of this instrument removes the requirement for any birth certificate that is provided to evidence a claim for child benefit to be an original certificate or an authenticated copy which is admissible in proceedings.

Regulation 5 of this instrument amends regulations 5 and 6 of the Child Benefit and Guardian’s Allowance (Decisions and Appeals) Regulations 2003 (S.I. 2003/916) (“the Decisions and Appeals Regulations”). Regulation 5 of the Decisions and Appeals Regulations sets out the conditions under which HMRC can alter certain decisions in relation to child benefit and guardian’s allowance. Regulation 5 of this instrument amends regulation 5 of the Decisions and

(a) The definition of “approved training” in Wales was amended by regulation 4 of S.I. 2012/818 and by regulation 6(2) of S.I. 2016/360. The definition of “approved training” in Scotland was amended by regulation 2 of S.I. 2014/1231 and regulation 5 of S.I. 2021/1286. There are instruments repealing the definition of “approved training” in England and amending the definition of “approved training” in relation to Northern Ireland, but none are relevant.

Appeals Regulations to provide that where HMRC has given an “anticipatory superseding decision” (which is defined in regulation 5(2)(b) of this instrument), that decision can be revised at any time from the date the decision is given until one month after the date from which it takes effect. Regulation 6 of the Decisions and Appeals Regulations specifies the circumstances in which the Commissioners for His Majesty’s Revenue and Customs can extend the time limits for revising a decision. Regulation 5(3) of this instrument makes a consequential amendment to regulation 6 of the Decisions and Appeals Regulations.

Regulation 6 of this instrument amends the definition of approved training in regulation 1 of the Child Benefit (General) Regulations 2006 (S.I. 2006/223) to include a new training scheme being introduced in Wales and to remove a training scheme in Scotland which ceased in March 2022.

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

© Crown copyright 2023

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty’s Stationery Office and King’s Printer of Acts of Parliament.

£4.90

<http://www.legislation.gov.uk/id/uksi/2023/179>

ISBN 978-0-34-824499-1



9 780348 244991