

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS (MISCELLANEOUS AMENDMENTS) REGULATIONS 2024

2024 No. 176

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before Parliament by Command of His Majesty.

2. Declaration

- 2.1 Nigel Huddleston MP, Financial Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.
- 2.2 James Knipe, Deputy Director for Welfare Policy in HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Mandy Clark, Policy Lead for Welfare Policy in HMRC (mandy.clark@hmrc.gov.uk), can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The instrument amends The Child Tax Credit Regulations 2002 (S.I. 2002/2007) to ensure certain recipients of Scottish disability assistance are eligible for disabled or severely disabled elements of Child Tax Credit.
- 4.2 The instrument amends The Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) to ensure payments made from compensation schemes set up by Post Office Limited are disregarded when calculating entitlement to tax credits. The instrument also amends The Tax Credits (Definition and Calculation of Income) Regulations 2002 to ensure payments made under section 2 of the Employment Act, by a Scottish local authority are disregarded when calculating entitlement to tax credits. These payments are intended to ease the progression into work for low-income parents in Scotland.
- 4.3 The instrument further amends The Tax Credits (Definition and Calculation of Income) to ensure payments made under section 2 of the Employment Act, by a housing association or local authority, are disregarded when calculating entitlement to tax credits. These payments are an incentive to enter employment to those residing in social housing.
- 4.4 This instrument makes changes to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) to include references to the higher rates and components of Scottish disability pension-age disability assistance. The amendments also ensure that claimants continue to receive the severe disability element when they are an in-patient at a hospital or similar institution.

Where does the legislation extend to, and apply?

- 4.5 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

- 5.1 Tax credits are a means-tested form of support which provides help to families with a wide variety of differing circumstances. Child Tax Credit supports families with children. Working Tax Credit provides support for working people on a low income.
- 5.2 Tax credits awards are calculated based on claimant's income. The rules for calculating income for tax credits generally mirror those for income tax, which means that claimants do not have to carry out a separate calculation of their income but can use figures calculated for tax purposes.

Disregarding certain payments as income for tax credits

- 5.3 These amendments disregard payments from certain new schemes when calculating tax credit claimants' income, to ensure that claimants continue to receive the level of tax credits to which they are entitled.
- 5.4 The payment schemes to be disregarded are compensation schemes in relation to Post Office Horizon issues, payments to ease the progression into work for low-income parents in Scotland to be made by Scottish Local Authorities and payments made under a Department for Work and Pensions Scheme which are an incentive to enter employment to those residing in social housing.

Changes to account for new Scottish disability assistance

- 5.5 Tax credits regulations were amended in 2020 and 2021 to entitle claimants to the severe disability element of tax credits if they receive certain higher rate components of Scottish Child Disability Payment or Scottish Adult Disability Payment. This mirrors entitlement rules for higher-rate components of DWP-administered disability benefits (child Disability Living Allowance, Personal Independence Payment, and Attendance Allowance).
- 5.6 These payments have now launched, and the Scottish Government is preparing to introduce a third form of assistance (pension-age disability payments). Further minor technical changes are needed to ensure tax credits legislation refers to the correct rates and components of Scottish disability assistance. These changes relate to nomenclature and do not change eligibility. Not making these changes would mean Scottish claimants of tax credits who are severely disabled could potentially miss out on their entitlement, disadvantaging them compared to claimants in the rest of the UK.

What was the previous policy, how is this different?

- 5.7 No change in Policy.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The instrument amends Regulation 8 of the Child Tax Credit Regulations 2002 to provide entitlement for disabled or severely disabled children who receive a reduced or nil rate of Scottish disability assistance because they are an in-patient in a hospital or similar institution.
- 6.2 Section 7 of the Tax Credits Act 2002 sets out that the entitlement of a person (a claimant) to tax credits is dependent on the relevant income. The Tax Credits (Definition and Calculation of Income) Regulations 2002 provide for what is or is not to be counted, or treated, as relevant income.
- 6.3 This instrument makes an amendment to regulation 19 of the Tax Credits (Definition and Calculation of Income) Regulations 2002 to disregard new forms of benefit or compensation payment as income in the calculation of tax credits.
- 6.4 The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 set out the entitlement conditions for Working Tax Credit. This instrument amends Regulation 17 of those regulations to refer to the higher rates and components of adult and pension-age Scottish disability assistance which carry entitlement to the severe disability element of Working Tax Credit.

Why was this approach taken to change the law?

- 6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 The Social Security Advisory Committee (SSAC) has been consulted on this instrument. SSAC is an independent statutory body sponsored by the Department for Work and Pensions that provides impartial advice on social security and tax credits-related matters. Under a memorandum of understanding with HMRC, it scrutinises secondary legislation that underpins the tax credits scheme.

8. Applicable Guidance

- 8.1 Guidance for tax credits is available through the tax credits helpline 0345 300 3900 and via <https://www.gov.uk/topic/benefits-credits/tax-credits>.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because no significant impact is foreseen.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 Tax credits are routinely monitored as part of HMRC's standard business practices. The approach to monitoring of other aspects of this legislation is minimal as these are minor consequential changes.
- 10.2 The instrument does not include a statutory review clause as it does not make regulatory provision in respect of a business.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

- 12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").