

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS (MISCELLANEOUS AMENDMENTS) REGULATIONS
2012

2012 No.

1. This explanatory memorandum has been prepared by HM Revenue & Customs, mainly on behalf of HM Treasury, and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The instrument makes changes to regulations to achieve the following outcomes for tax credits purposes, starting on 6 April 2012 (for outcome (f)(i), 30 April 2012).
 - 2.2
 - (a) Changing the qualification rules for working tax credit so that couples with children must work 24 hours a week between them, with one partner working at least 16 of those hours;
 - (b) reducing the time for backdating and paying claims (31 days, instead of 93 days; or 1 month, instead of 3 months).
 - (c) disregarding Continuity of Education Allowance and the fees for vulnerable persons' monitoring schemes when calculating employment income;
 - (d) ensuring that a child whose 16th birthday falls on 31 August then becomes covered by the rules for qualifying young persons instead;
 - (e) reducing to 4 weeks (from 8 weeks) the period in which someone must notify HM Revenue & Customs about the account into which tax credits should be paid;
 - (f) keeping the tax credit unchanged when:
 - (i) someone moves to an employment and support allowance from incapacity benefit, severe disablement allowance or income support, or
 - (ii) someone's entitlement to contribution-based Employment and Support Allowance ceases because of the twelve month time limit that is due to be introduced on 30 April 2012;
 - (g) updating references about other legislation.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 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, 2002/2007, 2002/2014, 2002/2173, 2003/653, 2003/654 and 2003/742. The outcomes in (a), (b), (e), (f) and (g) are self-explanatory.

4.2 For outcome (c), Continuity of Education Allowance is paid to Armed Forces personnel to provide a continuity of education for their children that would not otherwise be possible if they accompanied their parents on frequent assignments both at home and overseas. Regulation 3(1) ensures that from 6 April 2012 this is disregarded when calculating employment income for tax credits purposes. It does this by adding to Table 1 in regulation 4 (4) of S.I. 2002/2006.

4.3 Also for outcome (c), section 326A of the Income Tax (Earnings and Pensions) Act 2003 (inserted by section 39(1) of the Finance Act 2011) provides for no income tax liability to arise when someone is paid or reimbursed for the fees incurred on applying to join a scheme for the collation and disclosure of information about individuals working with vulnerable people. Similarly to paragraph 4.2, regulation 3(2) ensures that these items are also disregarded.

4.4 For outcome (d), regulation 4(4) corrects regulation 4 of S.I. 2002/2007 and so ensures for the purposes of child tax credit that a child whose 16th birthday falls on 31 August then becomes covered by the rules for qualifying young persons instead.

5. Territorial Extent and Application

5.1 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 The regulations are amended to bring into force the announcement made as part of the Spending Review 2010 affecting couples with children. With effect from 6 April 2012, couples with children will need to work a minimum of 24 hours a week between them, with one partner working at least 16 hours a week before they qualify for working tax credit. Couples with children will qualify for working tax credit where one member of a couple works at least 16 hours a week and that person is eligible for the disability element or is aged 60 or over. In addition, couples with children will qualify for working tax credit where one member of a couple works at least 16 hours a week and the other adult is incapacitated, an in-patient in hospital or in prison.

7.2 Couples affected by this change will not be entitled to the 4 week run-on solely because of this change to the regulations. This is because the loss in entitlement is because of a change in entitlement conditions, not because they

have ceased work or reduced their working hours. However, changes to the regulations makes clear that those couples who, on or after 6 April 2012, cease work or reduce their hours to the extent that they lose entitlement to WTC because they no longer meet the condition that at least one member of the couple works at least 16 hours a week and jointly they work 24 hours a week, will receive the 4 week run-on.

7.3 The changes also make it clear that we want to maintain the current position for entitlement to the child care element of WTC. Where a claim is made by a couple, each member must be in qualifying remunerative work for at least 16 hours a week to qualify for child care element of WTC. This requirement is, however, relaxed where one member is incapacitated, in hospital or in prison, in which case the other member must work at least 16 hours a week to qualify.

7.4 The amended regulations also aim to maintain the status quo in respect of qualifying benefits for the disability element of working tax credit and the definition of “incapacitated” for the purposes of the childcare element of working tax credit. These amendments are required as a consequence of the introduction on 30th April 2012 of a 12 month time limit to contribution-based employment and support allowance for recipients in the work related activity group and the migration to employment and support allowance of recipients of incapacity benefit, severe disablement allowance and income support paid because of illness or disability.

7.5 The regulations are amended to remove the 50+ element of working tax credit. This reduction in entitlement, which was available to people aged 50 or over, for a period of one year, who were returning to work for at least 16 hours a week after receiving one or more of a range of out of work benefits for six months or more, was announced in the Emergency Budget of June 2010.

7.6 The regulations are amended to reduce the period of backdating. For new tax credit claims, the period of backdating is reduced from 93 days to 31 days and, where a change in circumstances increases the maximum rate of an award, the period of backdating is reduced from 3 months to 1 month. The changes also apply to those people who are excluded from tax credits because of their immigration status but who subsequently receive notification from the Home Office that they have been granted refugee status.

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

7.7 These regulations introduce a specific tax credits disregard to mirror the proposed Income Tax exemption which covers the Ministry of Defence Continuity of Education Allowance (CEA). The CEA is paid to Armed Forces personnel to provide a continuity of education for their children that would not otherwise be possible if they accompanied their parents on frequent assignments both at home and overseas. The tax credit disregard also supports the principles of the Armed Forces Covenant and, in particular, the principle

that service personnel and their families should not be put at any disadvantage from entering into military life.

7.8 Section 39 of Part 2 of the Finance Act 2011 inserts a new section 326A into the Income Tax (Earnings & Pensions) Act 2003 to provide an exemption from Income Tax for registration fees payable under a new monitoring scheme, currently in operation in Scotland only, for all those individuals who work with children or vulnerable adults. As a consequence, this change to our regulations recognises this tax exemption and provides a specific tax credits disregard to mirror it.

7.9 The tax credits definition of student income includes the Adult Dependents Grant. We are making this minor technical adjustment to bring our regulations in line with any adult dependants grant payable in England and Wales.

Amendments to the Child Tax Credit Regulations 2002

7.10 These changes up-date legislative references and clarify the status of a child whose 16th birthday falls on 31 August.

Amendments to the Tax Credits (Claims and Notifications) Regulations 2002

7.11 As a consequence of the change to the Working Tax Credit (Entitlement and Maximum Rate) Regulations, the Claims and Notifications Regulations are amended to reflect the changes for backdating and also require a couple to notify HMRC of a change of circumstance where one or both members of a couple cease to work or reduce their hours to the extent that they lose entitlement to WTC because they no longer work at least 16 hours a week and jointly work at least 24 hours a week.

Amendments to the Tax Credits (Payments by the Commissioners) Regulations 2002

7.12 This change to the regulations reduces from eight weeks to four weeks the period of time when cash cheque payments of tax credits will be made.

Amendment to the Tax Credits (Immigration) Regulations 2003

7.13 This change is as a consequence of the change in the Working Tax Credit (Entitlement and Maximum Rate) regulations to backdating.

Amendment to the Tax Credits (Residence) Regulations 2003

7.14 This change provides an up-dated reference to current legislation.

Amendment to the Tax Credits (Polygamous Marriages) Regulations 2003

7.15 This change is as a consequence of the change to the Working Tax Credit (Entitlement and Maximum Rate) Regulations in respect of couples with children.

8. Consultation outcome

8.1 There is no statutory requirement to consult on these Regulations. However, the Social Security Advisory Committee (SSAC) has considered these regulatory changes under its Memorandum of Understanding with HMT and HMRC.

9. Guidance

9.1 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

11.1 The legislation does not apply to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is that it does not apply to small business

11.3 The basis for the final decision on what action to take to assist small businesses is as described in paragraphs 11.1 and 11.2.

12. Monitoring and review

12.1 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.