

**EXPLANATORY MEMORANDUM TO  
THE CHILD TAX CREDIT (AMENDMENT NO. 2) REGULATIONS 2006**

**S.I. 2006 No. 1163**

1. This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) and is to be laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

These regulations amend the Child Tax Credit Regulations 2002 to prevent the double provision of Child Tax Credit (CTC) and Working Tax Credit (WTC) in respect of child or qualifying young person who receives WTC in his or her own right (whether alone or as part of a joint claim with a spouse or partner).

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

None.

4. **Legislative Background**

Section 8 of the Tax Credits Act 2002 sets out the primary conditions for entitlement to CTC. Section 8(1) provides that a person is entitled to CTC in respect of a child or qualifying young person who is dependent on them, and for whom they are responsible. Regulation 3 of the Child Tax Credit Regulations 2002 sets out the circumstances in which a person is or is not responsible for a child or qualifying young person. And regulations 4 and 5 define who is a "child" or a "qualifying young person".

Together this legislation currently allows the payment of CTC in respect of a child or a qualifying young person who receives WTC in his/her own right, whether alone or as part of a joint claim with a spouse or partner.

But the policy intention is that tax credit support for a child/qualifying young person should be provided by either CTC or WTC.

The amendment regulations will bring the legislation into line with the policy intention, by adding the case of a child/qualifying young person who is receiving WTC in his/her own right (whether alone or as part of a joint claim), to the cases in which a person should not be treated as being responsible for them for the purposes of CTC.

5. **Extent**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

These regulations are subject to annulment and do not amend primary legislation. Accordingly, a certificate that the instrument is compatible with the Convention rights is not required.

## **7 Policy background**

The policy intention is that CTC should not be paid for a child/qualifying young person who is getting WTC in their own right (whether alone or as part of a joint claim with a spouse or partner), as this would result in two amounts of tax credit for the same person, so-called “double provision”.

These regulations amend the Child Tax Credit Regulations 2002 to provide a legal basis for the prevention of double provision in such cases.

The amendment regulations also provide limited transitional protection to those CTC claimants who satisfy the criteria for payment as set out in these regulations.

Sections 8(2) and 65(1), (7) and (9) of the Tax Credits Act 2002 confers to the Treasury the power to make the amendments as follows:

- Regulation 1 - provides that the amendment regulations shall come into force on 24 May 2006.
- Regulation 2 - adds an additional Case (Case F) in regulation 3(1) of the Child Tax Credit Regulations 2002, in which a person is not to be treated as being responsible for a child or qualifying young person. The effect is that a person is not to be treated as responsible for a child or a qualifying young person who is receiving WTC in his or her own right, whether alone or as part of a joint claim with a spouse or partner.

This regulation also allows a period of transitional protection for some CTC recipients. It does this by specifying that case F does not apply to those who had made a claim for, and were entitled to receive, CTC for the child or qualifying young person before the date of the making of these regulations, until:

- the child or the qualifying young person ceases relevant education or approved training ;
- the person claiming CTC ceases to receive it, or
- 25th August 2006;

whichever occurs first.

The effect is that a person who had made a claim for, and was entitled to receive, CTC in respect of a child or qualifying young person before the making of the amending regulations (i.e. before 25 April 2006), and who remains so entitled until immediately before these regulations come into force (i.e. 24 May 2006), can continue to receive that CTC for 3 months from the date the amendment regulations come into force, or for a shorter period if there is an earlier break in the claim.

## **8. Impact**

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

The Regulations do not impose new costs on business.

## **9. Contact**

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