

**2003 No. 44**

**SOCIAL SECURITY**

**TAXES**

**The Tax Credits (Miscellaneous Amendments) Regulations 2003**

*Made* - - - - *14th January 2003*

*Laid before Parliament* *14th January 2003*

*Coming into force* - - *4th February 2003*

The Treasury, in exercise of the powers conferred upon them by sections 128(5), 129(8), 136(3), (4) and (5), 137 (1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), and section 2(1)(a) of, and paragraphs 1(c), (d) and (g) and 20(a) of Schedule 2 to, the Tax Credits Act 1999(b), and the Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 137(2)(c) and (d) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 2002(c), and section 2(1)(c) of, and paragraphs 7(a) and 20(a) of Schedule 2 to, the Tax Credits Act 1999, hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) Regulations 2003 and shall come into force on 4th February 2003.

(2) These Regulations have effect in relation to award periods of working families' tax credit and disabled person's tax credit commencing on or after 4th February 2003.

**Interpretation**

2. In these Regulations—

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991(d);

“the Family Credit Regulations” means the Family Credit (General) Regulations 1987(e).

**Amendments to the Disability Working Allowance Regulations**

3.—(1) Amend regulation 2(1) of the Disability Working Allowance Regulations (interpretation) as follows.

(2) After the definition of “partner” insert the following definition—

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(a) 1992 c.4. Sections 128(5) and 129(8) were amended by paragraph 2(g) and (h) of Schedule 1 to the Tax Credits Act 1999 (c.10). Section 137(1) is cited because of the meaning it ascribes to the word “prescribed”.

(b) 1999 c.10.

(c) Section 137(2)(d) was substituted by paragraph 35(3) of Schedule 2 to the Jobseekers Act 1995 (c.18).

(d) S.I. 1991/2887.

(e) S.I. 1987/1973.

““paternity leave” means leave under section 80A of the Employment Rights Act 1996(a);”.

(3) After the definitions of “statutory maternity pay” and “maternity pay period”(b) insert the following definition—

“statutory paternity pay” means any payment under section 171ZA of the Contributions and Benefits Act(c);”.

4.—(1) Amend regulation 6 of the Disability Working Allowance Regulations (remunerative work) as follows.

(2) In paragraph (4) after sub-paragraph (d)(d) add-

“or

(e) in the case of a man on paternity leave at the date of the claim, the hours worked shall be calculated on the basis of a declaration made by him of the average hours worked per week prior to the commencement of his paternity leave.”.

(3) In paragraph (5) after sub-paragraph (e)(e) insert-

“or

(f) cannot satisfy the requirements of sub-paragraph (a) or (b) above at the date of claim because he is on paternity leave at that date but, prior to the commencement of his paternity leave, he worked, on average, not less than 16 hours a week,”.

5.—(1) Amend regulation 21 of the Disability Working Allowance Regulations (earnings of employed earners) as follows.

(2) In paragraph (2) after sub-paragraph (d)(f) add the following sub-paragraph—

“(e) any statutory paternity pay or a corresponding benefit under any enactment having effect in Northern Ireland.”.

6.—(1) Amend regulation 51A of the Disability Working Allowance Regulations (treatment of child care charges)(g) as follows.

(2) After paragraph (2ZA)(h) insert the following paragraph—

“(2ZB) A person is not engaged in remunerative work for the purposes of paragraph (1) where that person is treated as being in remunerative work by virtue only of paragraph (5)(f) of regulation 6 (man on paternity leave) unless, immediately prior to the birth of the child, that person was paying, or had incurred, relevant childcare charges for another child or other children of his household.”.

7.—(1) Amend Schedule 3 to the Disability Working Allowance Regulations (sums to be disregarded in the calculation of income other than earnings) as follows.

(2) After paragraph 27 insert the following paragraph—

“(27A) Any statutory paternity pay.”.

### **Amendments to the Family Credit Regulations**

8.—(1) Amend regulation 2(1) of the Family Credit Regulations (interpretation) as follows.

(2) After the definition of “partner” insert the following definition—

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(a) Section 80A was inserted by section 1 of the Employment Act 2002 (c.22).

(b) The definitions were inserted by regulation 3(4) of S.I. 2001/892.

(c) Section 171ZA was inserted by section 2 of the Employment Act 2002.

(d) Regulation 6(4)(d) was inserted by regulation 4(2) of S.I. 2001/892.

(e) Regulation 6(5)(e) was inserted by regulation 4(3) of S.I. 2001/892.

(f) Regulation 21 (2)(d) was added by regulation 18 of S.I. 1993/315.

(g) Regulation 51A was inserted as regulation 15A by regulation 3(4) of S.I. 1994/1924, and the inserted regulation was renumbered as regulation 51A by regulation 17 of S.I. 1999/2487.

(h) Paragraph (2ZA) was inserted by regulation 9(2) of S.I. 2001/892.

“paternity leave” means leave under section 80A of the Employment Rights Act 1996”

(3) After the definitions of “statutory maternity pay” and “maternity pay period”(a) insert the following definition—

“statutory paternity pay” means any payment under section 171ZA of the Contributions and Benefits Act;”.

9.—(1) Amend regulation 4 of the Family Credit Regulations (remunerative work) as follows.

(2) In paragraph (4) after sub-paragraph (d)(b) add-

“or

(e) in the case of a man on paternity leave at the date of the claim, the hours worked shall be calculated on the basis of a declaration made by him of the average hours worked per week prior to the commencement of his paternity leave.”.

(3) In paragraph (5) after sub-paragraph (e)(c) insert-

“or

(f) cannot satisfy the requirements of sub-paragraph (a) or (b) above because he is on paternity leave at that date but, prior to the commencement of his paternity leave, he worked, on average, not less than 16 hours a week,”.

10.—(1) Amend regulation 19 of the Family Credit Regulations (earnings of employed earners) as follows.

(2) In paragraph (2) after sub-paragraph (d)(d) add the following sub-paragraph—

“(e) any statutory paternity pay or a corresponding benefit under any enactment having effect in Northern Ireland.”.

11.—(1) Amend regulation 46A of the Family Credit Regulations (treatment of child care charges)(e) as follows.

(2) In paragraph (2) in the definition of “relevant childcare charges”(f)—

(a) omit sub-paragraph (i), inserted by regulation 9(a) of the Tax Credits (Miscellaneous Amendments No. 4) Regulations 2002(g), and the word “or” immediately preceding it;

(b) after sub-paragraph (j) of that paragraph(h) insert

“or

(k) by a child care provider approved by an accredited organisation in accordance with regulation 4 of the Tax Credit (New Category of Child Care Provider) Regulations 2002(i),”.

(3) After paragraph (2ZA)(j) insert the following paragraph—

“(2ZB) A person is not engaged in remunerative work for the purposes of paragraph (1) where that person is treated as being in remunerative work by virtue only of paragraph (5)(f) of regulation 4 (man on paternity leave) unless, immediately prior to the birth of the

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(a) The definitions were inserted by regulation 11(4) of S.I. 2001/892.

(b) Regulation 4(4)(d) was inserted by regulation 12(2) of S.I. 2001/892.

(c) Regulation 4(5)(e) was inserted by regulation 12 (3) of S.I. 2001/892.

(d) Regulation 19(2)(d) was added by regulation 12 of S.I. 1993/315.

(e) Regulation 46A was inserted as regulation 13A by regulation 4(4) of S.I. 1994/1924, and the inserted regulation was renumbered as regulation 46A by regulation 6 of S.I. 1999/2487.

(f) The definition of “relevant child care charges” was amended by regulation 4(2) of S.I. 1996/2545, regulation 12(a) of S.I. 1995/516, regulation 2(4) of S.I. 1997/2793, regulation 4(b) of S.I. 1999/714, regulation 8(2) of S.I. 1999/2487, regulation 5 of S.I. 2000/795, regulation 3(2) of S.I. 2002/14, regulation 3(2) of S.I. 2002/525 and regulation 9 of S.I. 2002/1696.

(g) S.I. 2002/1696. Sub-paragraph (i) was inserted erroneously as it should have been inserted as sub-paragraph (k).

(h) Sub-paragraph (j) was inserted by regulation 3 of S.I. 2002/525.

(i) S.I. 2002/1417.

(j) Paragraph (2ZA) was inserted by regulation 17(2) of S.I. 2001/892.

child, that person was paying, or had incurred, relevant childcare charges for another child or other children of his household.”.

12.—(1) Amend Schedule 2 to the Family Credit Regulations (sums to be disregarded in the calculation of income other than earnings) as follows.

(2) After paragraph 27 insert the following paragraph—

“(27A) Any statutory paternity pay.”.

14th January 2003

*Jim Fitzpatrick*  
*Philip Woolas*  
Two of the Lords Commissioners of Her Majesty’s Treasury

13th January 2003

*Nick Montagu*  
*Tim Flesher*  
Two of the Commissioners of Inland Revenue

### EXPLANATORY NOTE

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

These Regulations amend the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887) and the Family Credit (General) Regulations 1987 (S.I. 1987/1973) (“the principal Regulations”). Apart from the correction of a drafting error, the amendments are consequential on the Employment Act 2002 (c.22) which introduced paternity leave and statutory paternity pay.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulations 3 and 8 insert definitions of “paternity leave” and “statutory paternity pay” in the principal Regulations.

Regulations 4 and 9 ensure that fathers are treated as being in remunerative work for the purposes of entitlement to working families’ tax credit or disabled person’s tax credit if they are on paternity leave at the date of the claim to the tax credit and, prior to going on paternity leave, they were working 16 hours or more per week.

Regulations 5, 7, 10 and 12 provide that statutory paternity pay is to be disregarded in calculating the earnings or other income of the claimant for the purposes of working families’ tax credit or disabled person’s tax credit.

Regulations 6 and 11(3) provide that a father on paternity leave is only entitled to assistance with child care costs if, immediately prior to the birth of the child, he was paying or had incurred the costs of eligible childcare for another child or children of the family.

Regulation 11(2) corrects a drafting error in regulation 46A of the Family Credit Regulations.

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