

**2004 No. 1243**

**TAX CREDITS**

**The Tax Credits (Residence) (Amendment) Regulations 2004**

<i>Made</i> - - - -	<i>30th April 2004</i>
<i>Laid before Parliament</i>	<i>30th April 2004</i>
<i>Coming into force</i> - -	<i>1st May 2004</i>

The Treasury, in exercise of the powers conferred upon them by sections 3(7), 65(1), (3), (7) and (9) and 67 of the Tax Credits Act 2002(a), hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Tax Credits (Residence) (Amendment) Regulations 2004 and shall come into force on 1st May 2004.

(2) These Regulations shall cease to have effect on 1st May 2006 unless revoked with effect from an earlier date.

**Amendment of the Tax Credits (Residence) Regulations 2003**

2. The Tax Credits (Residence) Regulations 2003(b) are amended as follows.

3. In regulation 3 (circumstances in which a person is treated as not being in the United Kingdom) add at the end—

“(5) A person shall be treated as not being in the United Kingdom for the purposes of Part 1 of the Act where he—

- (a) makes a claim for child tax credit (other than being treated as making a claim under regulation 11 or 12 of the Tax Credits (Claims and Notifications) Regulations 2002(c) or otherwise), on or after 1st May 2004; and
- (b) does not have a right to reside in the United Kingdom.”.

30th April 2004

*Joan Ryan*  
*Nick Ainger*  
Two of the Lords Commissioners of Her Majesty's Treasury

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(a) 2002 c. 21; section 67 is cited because of the meaning it ascribes to the word “prescribed”.  
(b) S.I. 2003/654.  
(c) S.I. 2002/2014; relevantly amended by S.I. 2003/723 and 2004/762.

## EXPLANATORY NOTE

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

These Regulations amend the Tax Credits (Residence) Regulations 2003 (S.I. 2003/654: “the principal Regulations”).

Section 3(3) of the Tax Credits Act 2002 requires a claim for a tax credit to be made jointly by a married couple or unmarried couple, both of who are aged at least 16 and are in the United Kingdom, or by a single person who is aged at least 16 and is in the United Kingdom. Section 3(7) gives the Treasury power to prescribe circumstances in which a person is treated as being, or not being, in the United Kingdom. The principal Regulations introduce an ordinary residence test.

Regulation 1 of these Regulations provides for citation, commencement and effect, and regulation 2 provides for the principal Regulations to be amended.

Regulation 3 adds a new regulation 3(5) to the principal Regulations. The main effect of the amendment is that, where a person claims child tax credit (as opposed to being treated as making a claim) on or after 1st May 2004, he or she must have a legal right to reside in the United Kingdom. The legal right to reside may arise under either domestic or EC law.

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