

**2003 No. 45**

**SOCIAL SECURITY, NORTHERN IRELAND  
TAXES NORTHERN IRELAND**

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

<i>Made</i> - - - -	<i>14th January 2003</i>
<i>Laid before Parliament</i>	<i>14th January 2003</i>
<i>Coming into force</i> - -	<i>4th February 2003</i>

The Treasury, in exercise of the powers conferred upon them by sections 127(5), 128(8), 132(3) and (4), 133 (1) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), and section 2(1)(a) of, and paragraphs 3(c), (d) and (g) and 22(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 133(2)(c) and (d) and 171(1), (3) and (4) of the Social Security Contributions and Benefits Act 2002(c), and section 2(1)(c) of, and paragraphs 7(c) and 22(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) (Northern Ireland) 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 (Northern Ireland) 1992(d);

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

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(a) 1992 c.7. Sections 127(5) and 128(8) were amended by paragraph 4(g) and (h) of Schedule 1 to the Tax Credits Act 1999 (c.10). Section 133(1) is cited because of the meaning it ascribes to the word “prescribed”.  
(b) 1999 c.10.  
(c) Section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I.15)).  
(d) S.R. 1992 No. 78.  
(e) S.R. 1987 No. 463.

### **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—

““paternity leave” means leave under Article 112A of the Employment Rights (Northern Ireland) Order 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 Part XIIZA of the Employment Rights (Northern Ireland) Order 1996(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 Great Britain.”.

**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.”.

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(a) S.I. 1996/1919 (N.I.16). Article 112A was inserted by Article 4 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)).

(b) The definitions were inserted by regulation 3(4) of S.I. 2001/893.

(c) Part XIIZA was inserted by Article 5 of the Employment (Northern Ireland) Order 2002.

(d) Regulation 6(4)(d) was inserted by regulation 4(2) of S.I. 2001/893.

(e) Regulation 6(5)(e) was inserted by regulation 4(3) of S.I. 2001/893.

(f) Regulation 21 (2)(d) was added by regulation 2(4)(c) of S.R. 1993 No. 120.

(g) Regulation 51A was inserted as regulation 15A by regulation 4(3) of S.R. 1994 No. 274, and the inserted regulation was renumbered as regulation 51A by regulation 17 of S.I. 1999/2488.

(h) Paragraph (2ZA) was inserted by regulation 9(2) of S.I. 2001/893.

## **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—
- “paternity leave” means leave under Article 112A of the Employment Rights (Northern Ireland) Order 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 Part XIIZA of the Employment Rights (Northern Ireland) Order 1996;”.
- 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 Great Britain.”.
- 11.**—(1) Amend regulation 46A of the Family Credit Regulations (treatment of child care charges)(e) as follows.
- (2) After paragraph (2ZA)(f) 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 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.”.

*Jim Fitzpatrick*  
*Philip Woolas*

14th January 2003

Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) The definitions were inserted by regulation 11(4) of S.I. 2001/893.  
(b) Regulation 4(4)(d) was inserted by regulation 12(2) of S.I. 2001/893.  
(c) Regulation 4(5)(e) was inserted by regulation 12 (3) of S.I. 2001/893.  
(d) Regulation 19(2)(d) was added by regulation 3(4)(b) of S.R. 1993 No. 120.  
(e) Regulation 46A was inserted as regulation 13A by regulation 3(4) of S.R. 1994 No. 274, and the inserted regulation was renumbered as regulation 46A by regulation 6 of S.I. 1999/2488.  
(f) Paragraph (2ZA) was inserted by regulation 17(2) of S.I. 2001/893.

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 (Northern Ireland) 1992 (S.I. 1992 No. 78) and the Family Credit (General) Regulations (Northern Ireland) 1987 (S.I. 1987 No. 463) (“the principal Regulations”). The amendments are consequential on the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2) 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 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.

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