

2003 No. 742

TAX CREDITS

The Tax Credits (Polygamous Marriages) Regulations 2003

Made - - - - *14th March 2003*

Laid before Parliament *14th March 2003*

Coming into force - - *6th April 2003*

The Treasury, in exercise of the powers conferred upon them by sections 3(7), 7(8) and (9), 8, 10 to 12, 42, 43 and 65(1), (3), (7) and (9) of the Tax Credits Act 2002(a), and the Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 4(1), 6, 24 and 65(2), (3), (7) and (9) of that Act, and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tax Credits (Polygamous Marriages) Regulations 2003 and shall come into force on 6th April 2003, immediately after the coming into force of the Child Tax Credit (Amendment) Regulations 2003(b).

(2) Regulations 22 to 56 only have effect in relation to members of polygamous units (and in the case of regulations 35 to 38, former members of such units).

Interpretation

2. In these Regulations—

“the Act” means the Tax Credits Act 2002;

“polygamous couple” means a man and a woman who are married under a law which permits polygamy where—

- (a) they are not separated under a court order or in circumstances in which the separation is likely to be permanent, and
- (b) either of them has an additional spouse;

“polygamous unit” means—

- (a) a polygamous couple, and
- (b) any person who is married to either member of the polygamous couple and who is not separated from that member under a court order or in circumstances in which the separation is likely to be permanent.

(a) 2002 c. 21.
(b) S.I. 2003/ 738.

Modifications to Part 1 of the Act for members of polygamous units

3. Regulations 4 to 21 prescribe modifications to Part 1 of the Act so far as it applies to members of polygamous units.

4. In section 3—

- (a) in subsection (3)(a) after “United Kingdom” insert “(and neither of whom are members of a polygamous unit)”;
- (b) after subsection (3)(a) insert—
 - “(aa) jointly by the members of a polygamous unit all of whom are aged at least sixteen and are in the United Kingdom, or”;
- (c) in subsection (3)(b) after “paragraph (a)” insert “or (aa)”;
- (d) after subsection (4)(a) insert—
 - “(aa) in the case of a joint claim under subsection (3)(a), if a member of the married or unmarried couple becomes a member of a polygamous unit, and
 - (ab) in the case of a joint claim under subsection (3)(aa), if there is any change in the persons who comprise the polygamous unit, and”;
- (e) after subsection (6) insert—
 - “(6A) In this Part “polygamous unit” has the meaning given by regulation 2 of the Tax Credits (Polygamous Marriages) Regulations 2003.”;
- (f) in subsection (8), in the definition of “joint claim”, after “paragraph (a)” insert “or paragraph (aa)”.

5. In section 4(1)(g)—

- (a) for “member of a married couple or an unmarried couple” substitute “or more members of a polygamous unit”;
- (b) for “of the married couple or unmarried couple” substitute “or members”.

6. In section 7(2) for “either” substitute “any”.

7. In section 8(1) for “either or both” substitute “any or all”.

8. In section 9(2)(b) for “either or both” substitute “any or all”.

9. In section 10—

- (a) in subsection (1) for “either or both” substitute “any or all”.
- (b) in subsection (3) for “either” wherever it appears substitute “any”.

10. In section 11—

- (a) in subsection (3) for “either or both” substitute “any or all”;
- (b) in subsection (6)(a) for “either of the persons or the two” substitute “any of the persons or all”;
- (c) in subsection (6)(b) for “married couple or unmarried couple” substitute “polygamous unit”;
- (d) omit subsection (6)(c);
- (e) in both subsection (6)(d) and (e) for “either or both” substitute “any or all”.

11. In both section 12(3) and (4)(a) for “either or both” substitute “any or all”.

12. In section 14(2)(a) for “either or both” substitute “any or all”.

13. In section 16(3)(a) for “either or both” substitute “any or all”.

14. In section 17(10)(b)—

- (a) for “member of a married couple or an unmarried couple” substitute “or more members of a polygamous unit”;
 - (b) for “ married couple or unmarried couple” substitute “or members”.
15. In section 18(10) for “either or both” substitute “any or all”.
16. In section 19—
- (a) in subsection (2)(a) for “either or both” substitute “any or all”;
 - (b) in subsection (4)(a) for “either” substitute “any” and for “both” substitute “more than one”;
 - (c) in subsection (9) for “either” substitute “any”.
17. In section 20(4)(b) for “either” (wherever it appears) substitute “any”.
18. In section 24(2)—
- (a) for “married couple or an unmarried couple” substitute “polygamous unit”;
 - (b) for “whichever of them” substitute “one or more of those persons as”.
19. In section 29(4) for “either or both” substitute “any or all”.
20. In section 31(2)—
- (a) after “another” insert “or others”;
 - (b) for “unless subsection (3) applies” substitute “or each of them unless subsection (3) applies to the person in question”.
21. In section 37(1) for “either or both” (in each place they appear) substitute “any or all”.

Amendments to the Child Tax Credit Regulations 2002

22. Amend the Child Tax Credit Regulations 2002(a) (for members of polygamous units only) as follows.

23. In regulation 2(1)—
- (a) for the definition of “joint claim” substitute the following definition—
 - ““joint claim” means a claim under section 3(3)(aa) of the Act, as inserted by regulation 4(b) of the Tax Credits (Polygamous Marriages) Regulations 2003;”;
 - (b) insert at the appropriate place the following definition—
 - ““polygamous unit” has the meaning in the Tax Credits (Polygamous Marriages) Regulations 2003;”.

24. In regulation 3(1), in Rule 2.1., for “married couple or unmarried couple” in each place it appears substitute “polygamous unit”.

25. In regulation 7—
- (a) in paragraph (1)(b) for “married couple or unmarried couple” substitute “polygamous unit”;
 - (b) in paragraph (2)(b)(ii) for “either or both” substitute “any or all”.

Amendments to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

26. Amend the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b) (for members of polygamous units only) as follows.

(a) S.I. 2002/2007; amended by S.I. 2003/738
 (b) S.I. 2002/2005; amended by S.I. 2003/ 701

27. In regulation 2(1)—

- (a) for the definition of “joint claim” substitute the following definition—
““joint claim” means a claim under section 3(3)(aa) of the Act (as inserted by regulation 4(b) of the Tax Credits (Polygamous Marriages) Regulations 2003);”;
- (b) insert at the appropriate place the following definition—
““polygamous unit” has the meaning in the Tax Credits (Polygamous Marriages) Regulations 2003;”.

28. In regulation 3(3)—

- (a) for “both members of the couple satisfy” substitute “more than one member of the polygamous unit satisfies”; and
- (b) for “two such elements” substitute “one such element for each of them that satisfies those conditions”.

29. In regulation 4(1), in paragraph (a)(ii) of the Second Condition, for “his partner” substitute “any other member of the polygamous unit”.

30. In regulation 10(2)—

- (a) in sub-paragraph (c) for “couple” substitute “members of the polygamous unit”;
- (b) in sub-paragraph (d) for “couple” substitute “unit”.

31. In regulation 11—

- (a) in paragraph (1) after “element” insert “(and an additional such element for each member of the polygamous unit exceeding two in number)”;
- (b) in paragraph (2)(c) for “neither of the claimants” substitute “no claimant”;
- (c) in paragraph (4) in the words preceding sub-paragraph (a) after “adult element” insert “for any claimant”;
- (d) in paragraph (4)(a) for “neither claimant” substitute “none of the claimants”; and
- (e) in paragraph (4)(b) for “one claimant” substitute “the claimant in question”.

32. In regulation 13—

- (a) omit paragraph (1)(a);
- (b) in paragraph (1)(b) for “married or unmarried couple where both” substitute “polygamous unit where at least two of them”;
- (c) in paragraph (1)(c) for the words preceding paragraph (i) substitute “is a member or are members of a polygamous unit where at least one member is engaged in qualifying remunerative work and at least one other”.
- (d) in paragraph (4) for “the other member of a couple” substitute “another member of the polygamous unit”;
- (e) in paragraph (5) for “the other member or his partner” substitute “him or another member of the polygamous unit”.

33. In regulation 14—

- (a) in paragraph (1) for “either or both” substitute “any or all”;
- (b) in paragraph (1B) for “either or both” substitute “any or all”;
- (c) in paragraph (5) for “a partner or by a partner” substitute “another member of the same polygamous unit or”.

34. In regulation 20—

- (a) in paragraph (1) for “single claimant or to a couple” substitute “polygamous unit”;
- (b) omit paragraph (1)(c)(i);

- (c) in paragraph (1)(c)(ii) for “a couple either or both” substitute “the members of a polygamous unit, any or all of whom”;
- (d) in paragraph (1)(c)(iii) for “a couple” substitute “the members of a polygamous unit”;
- (e) omit paragraph (1)(e);
- (f) omit paragraph (1)(f)(i);
- (g) in paragraph (1)(f)(ii) for “couple” substitute “polygamous unit”.

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

35. Amend the Tax Credits (Definition and Calculation of Income) Regulations 2002**(a)** (for members or former members of polygamous units only) as follows.

36. In regulation 2 (interpretation)—

- (a) in paragraph (2) in the definition of “family” for “married or unmarried couple” substitute “members of the polygamous unit”;
- (b) in paragraph (2) insert at the appropriate places the following definitions—
 - ““joint claim” means a claim under section 3(3)(aa) of the Act, as inserted by regulation 4(b) of the Tax Credits (Polygamous Marriages) Regulations 2003;
 - “polygamous unit” has the meaning in the Tax Credits (Polygamous Marriages) Regulations 2003;”;
- (c) in paragraph (4)(a) for the words from “a claimant’s spouse” to the end substitute “another member of the same polygamous unit”;
- (d) in paragraph (4)(b) for the words from “claimant’s former spouse” to the end substitute “person who was formerly a member with the claimant of the same polygamous unit”.

37. In regulation 3(7) (calculation of income of claimant)—

- (a) in sub-paragraph (b) for “either or both” substitute “any or all”;
- (b) in sub-paragraph (c) for “either or both” substitute “any or all”.

38. In regulation 4(1) (employment income), in the words succeeding sub-paragraph (k) for “either” substitute “any”.

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

39. Amend the Tax Credits (Claims and Notifications) Regulations 2002**(b)** (for members of polygamous units only) as follows.

40. In regulation 2 (interpretation)—

- (a) for the definition of “joint claim” substitute the following definition—
 - ““joint claim” means a claim under section 3(3)(aa) of the Act, as inserted by regulation 4(b) of the Tax Credits (Polygamous Marriages) Regulations 2003;”;
- (b) insert at the appropriate place the following definition—
 - ““polygamous unit” has the meaning in the Tax Credits (Polygamous Marriages) Regulations 2003;”.

41. In regulation 11(2) for “both” substitute “all of the”.

42. In regulation 13—

(a) S.I. 2002/2006; amended by S.I. 2003/732.
(b) S.I. 2002/2014; amended by S.I. 2003/723.

- (a) in paragraph (1) for the words from “one member” to the end substitute “one or more members of a polygamous unit is to be treated as also made by the other member or members of that unit”;
- (b) in paragraph (2)—
 - (i) for “member of a married couple or an unmarried couple” substitute “or more members of a polygamous unit”;
 - (ii) for “both members of the couple” substitute “all the members of the unit”.

43. In regulation 15—

- (a) in paragraph (3) for the words from “only one” to the end substitute “one or more members of a polygamous unit die, the other member or members of the unit may proceed with the claim in the name or names of the person or persons who have died, as well as in their own name or names”;
- (b) in paragraph (4) for “both” (in each place it appears) substitute “all of”.

44. In regulation 16—

- (a) in paragraph (1) for the words from “member of a” to the end substitute “or more members of a polygamous unit die and the other member or members of the unit wish to make a joint claim for a tax credit”;
- (b) for paragraph (2) substitute—

“(2) The survivor or survivors may make and proceed with the claim in the name of the member or members who have died as well as in his or their own names.”;
- (c) in paragraph (3)(a)—
 - (i) for “married couple or unmarried couple” substitute “polygamous unit”;
 - (ii) add at the end “(or the earliest such date if more than one)”.

45. In regulation 23(2) for “either member of the married couple or unmarried couple” substitute “any member of the polygamous unit”.

46. In regulation 30(2) for “either” (in each place it appears) substitute “any”.

47. In regulation 31(2)(a) for “either” substitute “any”.

Amendments to the Tax Credits (Payment by the Board) Regulations 2002

48. Amend the Tax Credits (Payments by the Board) Regulations 2002(a) (for members of polygamous units only) as follows.

49. In regulation 2 (interpretation)—

- (a) omit the definitions of “married couple” and “unmarried couple”;
- (b) insert at the appropriate place the following definition—

““polygamous unit” has the meaning in the Tax Credits (Polygamous Marriages) Regulations 2003;”.

50. In regulation 3—

- (a) in the heading, for “couple” substitute “polygamous unit”;
- (b) for paragraphs (2) to (6) substitute—

“(2) There shall be established, for each particular child or qualifying young person for whom any or all of the members of the polygamous unit is or are responsible—

 - (a) the member of that unit who is (for the time being) identified by all the members of the unit as the main carer for that child or qualifying young person; or

(a) S.I. 2002/2173; amended by S.I. 2003/723

(b) in default of such a member, the member of that unit who appears to the Board to be the main carer for that child or qualifying young person.

(3) The individual element of child tax credit for any child or qualifying young person shall be paid to the main carer of that child or qualifying young person.

(4) The family element of child tax credit for any polygamous unit shall be divided (pro rata) by the number of children and qualifying young persons for whom any or all of the members of that unit is or are responsible, and the proportion so attributable to each such child or qualifying young person shall be paid to the main carer of that child or qualifying young person.

(5) Any child care element of working tax credit shall be divided (pro rata) by the number of children referred to in paragraph (2) in respect of whom relevant child care charges are paid, and the proportion so attributable to each such child shall be paid to the main carer of that child.

(6) In this regulation—

“child” has the meaning given by the Child Tax Credit Regulations 2002;

“qualifying young person” has the meaning given by those Regulations; and

“relevant child care charges” has the meaning given by regulation 14(1) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002.”

Amendments to the Tax Credits (Residence) Regulations 2003

51. Amend the Tax Credits (Residence) Regulations 2003**(a)** (for members of polygamous units only) as follows.

52. In regulation 2 (Interpretation)—

(a) in the definition of “partner” for the words from “married” to the end substitute “polygamous unit, any other member of that unit”;

(b) insert at the appropriate place the following definition—

““polygamous unit” has the meaning in the Tax Credits (Polygamous Marriages) Regulations 2003;”.

Amendments to the Tax Credits (Immigration) Regulations 2003

53. Amend the Tax Credits (Immigration) Regulations 2003**(b)** (for members of polygamous units only) as follows.

54. In regulation 2 (Interpretation)—

(a) for the definition of “joint claim” substitute the following definition—

““joint claim” means a claim under section 3(3)(aa) of the Act, as inserted by regulation 4(b) of the Tax Credits (Polygamous Marriages) Regulations 2003;”;

(b) insert at the appropriate place the following definition—

““polygamous unit” has the meaning in the Tax Credits (Polygamous Marriages) Regulations 2003;”.

55. In regulation 3(2)—

(a) for the words from “married couple” to “and the other” substitute “polygamous unit is a person subject to immigration control and any other”;

(b) in sub-paragraph (b) for “couple” substitute “unit”.

(a) S.I. 2003/654.

(b) S.I. 2003/653.

56. In regulation 4(1) (modifications to the Tax Credits Act 2002) add at the end “(which, in the case of a claim by the members of a polygamous unit, are subject to the modifications made by regulations 4 to 21 of the Tax Credits (Polygamous Marriages) Regulations 2003)”.

14th March 2003

Jim Fitzpatrick
John Heppell
Two of the Lords Commissioners of Her Majesty’s Treasury

14th March 2003

Tim Flesher
Dave Hartnett
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Tax Credits Act 2002 (“the Act”) introduces new tax credits – child tax credit and working tax credit – which are available from 6th April 2003.

Section 43 of the Act provides that regulations may make provision for Part 1 of the Act to apply to persons who are parties to polygamous marriages subject to prescribed modifications.

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

Regulations 3 to 21 prescribe modifications to Part 1 of the Act for members of polygamous units.

Regulations 22 to 56 make technical amendments to other Regulations dealing with new tax credits, which are consequential on the modifications made by regulations 3 to 21.

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