

2002/2007

## Child Tax Credit Regulations 2002

Made by the Treasury under TCA 2002 ss 8, 9, 65, 67

*Made 30 July 2002*

*Coming into force in accordance with regulation 1*

### 1 Citation, commencement and effect

These Regulations may be cited as the Child Tax Credit Regulations 2002 and shall come into force—

- (a) for the purpose of enabling claims to be made, on 1st August 2002;
- (b) for the purpose of enabling awards to be made, on 1st January 2003; and
- (c) for all other purposes on 6th April 2003;

and shall have effect for the tax year beginning on 6th April 2003 and subsequent tax years.

### HMRC Manuals—

Tax Credit Technical Manual TCTM2200–2207 (CTC entitlement).

### 2 Interpretation

(1) In these Regulations, unless the context otherwise requires—

["A", as a noun, has the meaning given by regulation 7(2A);]<sup>14</sup>

"the Act" means the Tax Credits Act 2002;

"advanced education" means<sup>12</sup> ...—

- (a) a course in preparation for a degree, a diploma of higher education, a higher national diploma, a higher national diploma or higher national certificate of Edexcel or the Scottish Qualifications Authority, or a teaching qualification; or
- (b) any other course which is of a standard above ordinary national diploma, a national diploma or national certificate of Edexcel...<sup>2</sup>, a general certificate of education (advanced level), [or Scottish national qualifications at higher or advanced higher level]<sup>2</sup>;

["approved training" has the meaning given by regulation 1(3) of the Child Benefit (General) Regulations 2006;]<sup>4</sup>

["armed forces independence payment" means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;]<sup>10</sup>

["the Board" means the Commissioners [for Her Majesty's Revenue and Customs];]<sup>1</sup>

"the Careers Service" means—

- (a) in England and Wales, a person with whom the Secretary of State or the National Assembly of Wales has made arrangements under section 10(1) of the Employment Act, and a [local authority]<sup>7</sup> to whom the Secretary of State or the National Assembly of Wales has given a direction under section 10(2) of that Act,
- (b) in Scotland, a person with whom the Scottish Ministers have made arrangements under section 10(1) of the Employment Act and any education authority to which a direction has been given by the Scottish Ministers under section 10(2) of that Act, and
- (c) ...<sup>1</sup>

"child" means a person who has not attained the age of sixteen ...<sup>5</sup>;

“claimant” has the meaning in section 9(8) of the Act, [except in regulations 7 and 9 to 14 (for which see regulations 7(1) and 13(13) to (15))]14;

“the Connexions Service” means a person of any description with whom the Secretary of State has made an arrangement under section 114(2)(a) of the Learning and Skills Act 2000 and section 10(1) of the Employment Act, and any person to whom he has given a direction under section 114(2)(b) of the former Act and section 10(2) of the latter Act;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;

[“couple” has the meaning given by section 3(5A) of the Act;]3

“custodial sentence”—

- (a) in England and Wales, has the meaning in section 76 of the Powers of Criminal Courts (Sentencing) Act 2000,
- (b) in Scotland, means detention under a sentence imposed by a court under sections 44, 205, 207 or 208 of the Criminal Procedure (Scotland) Act 1995, and
- (c) in Northern Ireland, means a custodial sentence under the Criminal Justice (Children) (Northern Ireland) Order 1998;

“disability living allowance” means a disability living allowance under section 71 of the Contributions and Benefits Act;

“the Employment Act” means the Employment and Training Act 1973;

“the family element of child tax credit” and “the individual element of child tax credit” shall be construed in accordance with section 9(3) of the Act;

...12

[“income support” means income support under section 124 of the Contributions and Benefits Act;]14

“joint claim” and “single claim” shall be construed in accordance with section 3(8) of the Act;

“looked after by a local authority” has the meaning in section 22 of the Children Act 1989, [section 74 of the Social Services and Well-being (Wales) Act 2014,]13 section 17(6) of the Children (Scotland) Act 1995 or (in Northern Ireland) Article 25 of the Children (Northern Ireland) Order 1995 (with the modification that for the reference to a local authority there is substituted a reference to an authority within the meaning in Article 2 of that Order)[, and (in Scotland) includes a child in respect of which a child assessment order within the meaning of section 35 of the Children’s Hearings (Scotland) Act 2011 has been made or a child protection order within the meaning of section 37 of that Act has been made]12;

the “main responsibility test” has the meaning given in Rule 2.2. of regulation 3;

the “normally living with test” has the meaning given in Rule 1.1. of regulation 3;

[“old style JSA” means a jobseeker’s allowance under the Jobseekers Act 1995(c) as that Act has effect apart from the amendments made by Part 1 of Schedule 14 to the Welfare Reform Act 2012(d) that remove references to an income-based allowance;]14

“Part 1” means Part 1 of the Act;

“patient” means a person (other than a person who is serving a custodial sentence) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-patients) Regulations 1975, or the Social Security (Hospital In-patients) Regulations (Northern Ireland) 1975;

[personal independence payment” means personal independence payment under Part 4 of the Welfare Reform Act 2012;]9

[“placing for adoption” means placing for adoption in accordance with—

- (a) the Adoption Agencies Regulations 2005,
- (b) the Adoption Agencies (Wales) Regulations 2005

- (c) the Adoption Agencies (Scotland) Regulations 2009, or
- (d) the Adoption Agencies Regulations (Northern Ireland) 1989,<sup>8</sup>

["qualifying body" means—

- (a) the Careers Service or Connexions Service;
- (b) the Ministry of Defence;
- (c) in Northern Ireland, the Department for [Communities, the Department for the Economy or the Education Authority]<sup>15</sup>; or
- (d) for the purposes of applying Council Regulation (EEC) No 1408/71 [and Regulation (EC) No 883/2004 of the European Parliament and of the Council]<sup>6</sup>, any corresponding body in another member state;<sup>5</sup>

"qualifying young person" means a person, other than a child, who—

- (a) has not attained the age of [twenty]<sup>4</sup>, and
- (b) satisfies the conditions in regulation 5(3) and (4);

...<sup>5</sup>

...<sup>4</sup>

"remunerative work" means work which is—

- (a) done for payment or in expectation of payment,
- (b) undertaken for not less than 24 hours a week, calculated in accordance with regulation 4(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, and
- (c) not excluded from the meaning of engagement in remunerative work by regulation 4(2) of those Regulations;

["step-parent", in relation to A, means a person who is not A's parent but—

- (a) is a member of a couple, the other member of which is a parent of A, where both are responsible for A; or
- (b) was previously a member of—
  - (i) a couple, the other member of which was a parent of A, or
  - (ii) a polygamous unit (within the meaning of the Tax Credits (Polygamous Marriages) Regulations 2003), another member of which was a parent of A,

if immediately prior to ceasing to be a member of that couple or that polygamous unit the person was, and has since remained, responsible for A;<sup>14</sup>

and other expressions have the same meanings as defined in the Act.

(2) In the application of these Regulations to Northern Ireland, a reference to a provision of an enactment which applies only to Great Britain or England and Wales, shall be construed, so far as necessary, as including a reference to the corresponding enactment applying to Northern Ireland.

## HMRC Manuals—

Tax Credit Technical Manual TCTM2204 (lists types of recognised educational establishments, non-advanced education etc).

## Modifications—

Tax Credits (Polygamous Marriages) Regulations, SI 2003/742 regs 22, 23 (definition of "joint claim" substituted and definition of "polygamous unit" inserted; for the purposes of polygamous marriages).

## Amendments—

<sup>1</sup> Definition of “the Board” inserted, para (c) in definition of “Careers Service” repealed, and in definition of “relevant training programme”, para (aa) inserted, by CTC (Amendment) Regulations, SI 2003/738 regs 2, 3 with effect from 6 April 2003.

<sup>2</sup> In the definition of “advanced education”, words revoked and substituted by the Tax Credits (Miscellaneous Amendments No 2) Regulations, SI 2003/2815 reg 17 with effect from 26 November 2003.

<sup>3</sup> In para (1), definition of “couple” inserted by the Civil Partnership Act 2004 (Tax Credits, etc) (Consequential Amendments) Order, SI 2005/2919 art 4(1), (2) with effect from 5 December 2005.

<sup>4</sup> Definition of “approved training” inserted; words substituted in the definitions of “the Board” and “qualifying young person”; and definition of “relevant training programme” revoked; by CTC (Amendment) Regulations, SI 2006/222 regs 2, 3 with effect from 6 April 2006.

<sup>4</sup> However, a person aged 19 or over on 6 April 2006 is not a qualifying young person, regardless of these amendments: SI 2006/222 reg 1.

<sup>5</sup> In para (1), words in definition of “child” revoked, definitions of “full-time education” and “qualifying body” inserted, and definition of “recognised educational establishment” revoked, by the Tax Credits (Miscellaneous Amendments) (No 2) Regulations, SI 2008/2169 regs 6, 7 with effect from 1 September 2008.

<sup>6</sup> In para (1), in definition of “qualifying body”, in para (d), words inserted, by the Tax Credits (Miscellaneous Amendments) (No 3) Regulations, SI 2010/2914 regs 8, 9 with effect from 31 December 2010.

<sup>7</sup> In para (1), in definition of “the careers service”, in para (a), words substituted by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Local and Subordinate Legislation) Order, SI 2010/1172 art 5, Sch 3 para 46 with effect from 5 May 2010.

<sup>8</sup> In para (1), definition of “placing for adoption” substituted by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2012/848 regs 1(2), 4(1), (2) with effect from 6 April 2012.

<sup>9</sup> In para (1), definition of “personal independence payment” inserted by the Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations, SI 2013/388 reg 30(1), (2) with effect from 8 April 2013.

<sup>10</sup> In para (1), definition of “armed forces independence payment” inserted by the Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order, SI 2013/591 art 7, Schedule para 26(1), (2) with effect from 8 April 2013.

<sup>11</sup> In sub-para (1), in definition of “looked after by a local authority”, words inserted by the Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order, SI 2013/1465 art 17, Sch 1 para 19(1), (2) with effect from 24 June 2013 (the day the Children’s Hearings (Scotland) Act 2011 s 7 came into force: SSI 2013/195 art 2).

<sup>12</sup> In para (1), in definition of “advanced education”, words revoked, and definition of “full-time education” revoked by the Child Benefit (General) and Child Tax Credit (Amendment) Regulations, 2014/1231, reg 3(1), (2) with effect from 4 June 2014.

<sup>13</sup> In para (1), in definition of “looked after by a local authority”, words inserted by the Tax Credits and Child Benefit (Miscellaneous Amendments) Regulations, SI 2016/360 reg 4(1), (2) with effect from 6 April 2016.

<sup>14</sup> In para (1), definitions of “A”, “income support”, “old style JSA” and “step-parent” inserted, and in definition of “claimant” words substituted, by the Child Tax Credit (Amendment) Regulations, SI 2017/387 regs 2, 3 with effect from 6 April 2017.

<sup>15</sup> In para (1), definition of “qualifying body”, in para (c), words substituted for words “Employment and Learning or an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986” by the Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations, SI 2019/364 reg 4(1), (2) with effect from 21 March 2019.

### **3 Circumstances in which a person is or is not responsible for a child or qualifying young person**

(1) For the purposes of child tax credit the circumstances in which a person is or is not responsible for a child or qualifying young person shall be determined in accordance with the following Rules.

#### **Rule 1**

1.1 A person shall be treated as responsible for a child or qualifying young person who is normally living with him (the “normally living with test”).

1.2 This Rule is subject to Rules 2 to 4.

**Rule 2**(Competing claims)

2.1 This Rule applies where—

- (a) a child or qualifying young person normally lives with two or more persons in—
  - (i) different households, or
  - (ii) the same household, where those persons are not limited to the members of a ...<sup>2</sup> couple, or
  - (iii) a combination of (i) and (ii), and
- (b) two or more of those persons make separate claims (that is, not a single joint claim made by a ...<sup>2</sup> couple) for child tax credit in respect of the child or qualifying young person.

2.2 The child or qualifying young person shall be treated as the responsibility of—

- (a) only one of those persons making such claims, and
- (b) whichever of them has (comparing between them) the main responsibility for him (the “main responsibility test”),

subject to Rules 3 and 4.

**Rule 3**

3.1 The persons mentioned in Rule 2.2. (other than the child or qualifying young person) may jointly elect as to which of them satisfies the main responsibility test for the child or qualifying young person, and in default of agreement the Board may determine that question on the information available to them at the time of their determination.

**Rule 4**

4.1 A child or qualifying young person shall be treated as not being the responsibility of any person during any period in which any of the following Cases applies.

Case A The child or qualifying young person is provided with, or placed in, accommodation under Part III of the Children Act 1989, [Parts 4 or 6 of the Social Services and Well-being (Wales) Act 2014,]<sup>11</sup> Part II of the Children (Scotland) Act 1995 [by virtue of a requirement in a child assessment order within the meaning of section 35 of the Children’s Hearings (Scotland) Act 2011, a child protection order within the meaning of section 37 of that Act, a compulsory supervision order within the meaning of section 83 of that Act or an interim compulsory supervision order within the meaning of section 86 of that Act,]<sup>10</sup> or Part IV of the Children (Northern Ireland) Order 1995, and the cost of that child’s or qualifying young person’s accommodation or maintenance is borne wholly or partly—

(i) out of local authority funds under [section 22C(10) ...<sup>11</sup> of the Children Act 1989 [or section 81(13) of the Social Services and Wellbeing (Wales) Act 2014]<sup>11</sup> or [regulation 33 of the Looked After Children (Scotland) Regulations 2009]<sup>8</sup> ,

(ii) in Northern Ireland, by an authority, within the meaning in Article 2, and under Article 27, of that Order, or

(iii) out of other public funds.

...<sup>4</sup>

Case B The child or qualifying young person—

(i) is being looked after by a local authority, and

(ii) has been placed for adoption by that authority in the home of a person proposing to adopt him,

and a local authority is making a payment in respect of the child’s or qualifying young person’s accommodation or maintenance, or both, under [section 22C(10) ...<sup>11</sup> of the Children Act 1989, [section 81(13) of the Social Services and Well-being (Wales) Act 2014,]<sup>11</sup> [regulation 33 of the Looked After Children (Scotland) Regulations 2009]<sup>8</sup> or Article 27 of the Children (Northern Ireland) Order 1995.

This Case applies in Northern Ireland with the modification that for references to a local authority there are substituted references to an authority (within the meaning in Article 2 of that Order).

- Case C A custodial sentence—
- (a) for life,
  - (b) without limit of time,
  - (c) of detention during Her Majesty's pleasure,
  - (d) in Northern Ireland, of detention during the pleasure of the Secretary of State, or
  - (e) for a term or period of more than four months,
- has been passed on the child or qualifying young person.
- Case D The ...<sup>5</sup> qualifying young person claims and is awarded child tax credit in his or her own right, in respect of a child for whom he or she is responsible, for that period.
- [Case E ...<sup>5</sup> the qualifying young person, claims incapacity benefit [or contributory employment and support allowance payable under Part 1 of the Welfare Reform Act 2007]<sup>6</sup> in his or her own right and that benefit is paid to or in respect of him or her for that period.
- This Case does not apply at any time ("the later time") during a period of incapacity for work which began before 6th April 2004 in the case of a person in respect of whom, at a time—
- (a) during that period of incapacity, and
  - (b) before that date,
- both incapacity benefit and child tax credit were payable, if child tax credit has been payable in respect of him or her continuously since 5th April 2004 until that later time.
- For the purposes of this Case "period of incapacity" shall be construed in accordance with section 30C of the 1992 Act (incapacity benefit: days and periods of incapacity for work) but disregarding subsections (5) and (5A) of that section.]<sup>1</sup>
- [Case F ...<sup>5</sup> the qualifying young person claims and receives working tax credit in his or her own right (whether alone or on a joint claim). ...<sup>5</sup> .<sup>3</sup>
- [Case G The qualifying young person has a spouse, civil partner or partner with whom they are living and the spouse, civil partner or partner is not in full-time education or approved training as provided for under regulation 5(3).
- Case H The responsible person is the spouse, civil partner or partner of a qualifying young person with whom they are living.
- [Cases G and H do]<sup>7</sup> not apply to persons in receipt of child tax credit for a qualifying young person who is living with a partner on the day before 1st September 2008.]<sup>5</sup>

[4.2 Where a child or qualifying young person is in residential accommodation referred to in regulation 9 of the Child Benefit (General) Regulations 2006 and in the circumstances prescribed in paragraphs (a) or (b) of that regulation, he shall be treated as being the responsibility of any person who was treated as being responsible for him immediately before he entered that accommodation.]<sup>4</sup>

(2) Where—

- (a) a claimant is treated as responsible for a child or qualifying young person by virtue of the preceding Rules, and
- (b) the child or qualifying young person has a child of his or her own, normally living with him or her,

the claimant shall also be treated as responsible for, and as having made a claim for child tax credit in respect of, the child of the child or qualifying young person (but without prejudice to the facts as to which of them is mainly responsible for that child).

Commentary—

*Simon's Taxes* **E2.212**.

HMRC Manuals—

Tax Credit Technical Manual TCTM2201 (reg 3(1): the terms “normally lives with you” and “main responsibility” should be given their ordinary every day meaning; factors listed which Revenue consider in deciding who has main responsibility, eg who the child normally lives with and where they keep the majority of their belongings such as clothes, toys).

TCTM2202 (guidance on rule 4; a child or young person treated as normally living with a family if he or she is a patient in long term care unless, during that time, the family ceases to have main responsibility for the child or young person)

## Modifications—

Tax Credits (Polygamous Marriages) Regulations, SI 2003/742 regs 22, 24 (in para (1) Rule 2.1 above, “polygamous unit” to be substituted for “married couple or unmarried couple” wherever occurring, for the purposes of polygamous marriages).

<sup>1</sup> In para (1), Rule 4, Case E inserted by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2004/762 reg 2 with effect from 6 April 2004.

<sup>2</sup> In para (1), words in Rule 2 revoked by the Civil Partnership Act 2004 (Tax Credits, etc) (Consequential Amendments) Order, SI 2005/2919 art 4(1), (3) with effect from 5 December 2005.

<sup>3</sup> Words in para (1) inserted by the Child Tax Credit (Amendment No 2) Regulations, SI 2006/1163 with effect from 24 May 2006.

<sup>4</sup> Words in para (1), Rule 4, Case A revoked, and Rule 4.1 inserted, by the Child Tax Credit (Amendment) Regulations, SI 2007/2151 regs 2, 3 with effect from 16 August 2007.

<sup>5</sup> In para (1), Rule 4.1, words in Cases D, E, F revoked, and Cases G, H inserted, by the Tax Credits (Miscellaneous Amendments) (No 2) Regulations, SI 2008/2169 regs 6, 8 with effect from 1 September 2008.

<sup>6</sup> Words in para (1) inserted by the Employment and Support Allowance (Consequential Provisions) (No 3) Regulations, SI 2008/1879 reg 22(1), (2) with effect from 27 October 2008.

<sup>7</sup> In para (1), Rule 4.1, Case H, words substituted by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2009/697 regs 9, 10 with effect from 6 April 2009.

<sup>8</sup> In para (1), in Rule 4, in Case A para (i) and Case B para (ii), words substituted for words “section 26 of the Children (Scotland) Act 1995”, by the Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order, SI 2011/1740 art 2 Sch 1 para 29(1), (3) with effect from 15 July 2011.

<sup>9</sup> In Rule 4.1, in Case A in sub-para (i), and in Case B, words inserted, by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2012/848 regs 1(2), 4(1), (3) with effect from 6 April 2012.

<sup>10</sup> In para (1), Rule 4.1, Case A, inserted by the Children's Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order, SI 2013/1465 art 17, Sch 1 para 19(1), (3) with effect from 24 June 2013 (the day the Children's Hearings (Scotland) Act 2011 s 7 came into force: SSI 2013/195 art 2).

<sup>11</sup> In para (1), Rule 4.1, Case A, Case B, words inserted and revoked by the Tax Credits and Child Benefit (Miscellaneous Amendments) Regulations, SI 2016/360 reg 4(1), (3) with effect from 6 April 2016.

### **4 [Period for which a person who attains the age of sixteen is a qualifying young person**

(1) [Subject to paragraph (1A), a]<sup>2</sup> person who attains the age of sixteen is a qualifying young person from the date on which that person attained that age until 31st August which next follows that date.

[(1A) A person who attains the age of sixteen on 31st August is a qualifying young person from the date on which that person attained that age.]<sup>2</sup>

(2) Paragraph (1) is subject to regulation 5 but as if there were no requirement to satisfy the first condition specified in paragraph (3) of that regulation.]<sup>1</sup>

[(2A) Paragraph (1A) is subject to regulation 5.]<sup>2</sup>

## Amendments—

<sup>1</sup> Reg 4 substituted by the Tax Credits (Miscellaneous Amendments) (No 2) Regulations, SI 2008/2169 regs 6, 9 with effect from 1 September 2008.

<sup>2</sup> In para (1), words substituted, and paras (1A), (2A) inserted, by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2012/848 regs 1(2), 4(1), (4) with effect from 6 April 2012.

**5 Maximum age and prescribed conditions for a qualifying young person**

(1) For the purposes of Part 1 a person ceases to be a qualifying young person (unless disqualified earlier under the following paragraphs) on the date on which he attains the age of [twenty]<sup>2</sup>.

(2) A person who is not a child, but has not attained the age of [twenty]<sup>2</sup> years, is a qualifying young person for any period during which the following conditions are satisfied with regard to him [(and once a person falls within the terms of paragraph (3)(b), he shall be treated as having satisfied the first condition from the [relevant leaving date]<sup>3</sup> mentioned in that paragraph)]<sup>1</sup>.

(3) The first condition is that he is<sup>2</sup> ...—

(a) receiving full-time education, not being—

(i) advanced education, or

(ii) education received by that person by virtue of his employment or of any office held by him; ...<sup>2</sup>

[(ab) undertaking approved training[, is enrolled or has been accepted to undertake such training,]<sup>4</sup> which is not provided [by means of a contract of employment]<sup>5</sup>; or]<sup>2</sup>

(b) under the age of eighteen years and—

[(i) he ceased to receive full-time education or to undertake approved training (the date of that event being referred to as “the relevant leaving date”);]<sup>2</sup>

[(ii) within 3 months of the [relevant leaving date]<sup>2</sup>, he has notified the Board (in the manner prescribed by regulation 22 of the Tax Credits (Claims and Notifications) Regulations 2002) that he is registered for work or training with [a qualifying body]<sup>5</sup>, and]<sup>1</sup>

[(iii) not more than 20 weeks has elapsed since the [relevant leaving date]<sup>2</sup>.]<sup>1</sup>

[(3A) A person who has attained the age of nineteen years satisfies paragraph (3)(a) or (ab) only where the course of education or training began before he attained that age[, or he enrolled or was accepted to undertake that course before he attained that age]<sup>4</sup>.]<sup>2</sup>

(4) The second condition is that the period in question is not (and does not include)—

(a) a week in which he (having ceased to receive full-time education [or approved training]<sup>2</sup>) becomes engaged in remunerative work [or]<sup>2</sup>;

(b) ...<sup>2</sup>

(c) a period in respect of which that person receives income support[, income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007]<sup>6</sup>[,]<sup>7</sup> income-based jobseeker's allowance within the meaning of section 1(4) of the Jobseekers Act 1995 [or universal credit under Part 1 of the Welfare Reform Act 2012]<sup>7</sup>.

[(5) For the purposes of paragraphs (3) and (4) a person shall be treated as being in full-time education if full-time education is received by that person by undertaking a course—

(a) at a school or college, or

(b) where that person has been receiving that education prior to attaining the age of sixteen, elsewhere, if approved by the Board,]<sup>5</sup> [or

(c) where that person begins to receive that education after attaining the age of 16, elsewhere, if approved by the Board, provided that—

(i) that person has received a statement of special educational needs, and

(ii) that programme of education has been assessed by a local authority as being suitable for that person's special needs,]<sup>10</sup>

where in pursuit of that course, the time spent receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course,



exceeds or exceeds on average 12 hours a week in normal term-time [and shall include gaps between the ending of one course and the commencement of another, where the person enrolls on and commences the latter course]<sup>9</sup> ...<sup>4</sup>.

[(5A) If paragraph (5) does not apply, then for the purposes of paragraphs (3) and (4) a person shall be treated as being in full-time education if that person is being provided with “appropriate full-time education” in England within section 4 (appropriate full-time education or training) of the Education and Skills Act 2008.]<sup>8</sup>

(6) In calculating the time spent in pursuit of the course, no account shall be taken of time occupied by meal breaks or spent on unsupervised study.

[(7) In determining whether a person is undertaking a course of full-time education or approved training, there shall be disregarded any interruption—

(a) for a period of up to 6 months, whether beginning before or after the person concerned attains age 16, to the extent that it is reasonable in the opinion of the Board to do so; and

(b) for any period due to illness or disability of the mind or body of the person concerned provided that it is reasonable in the opinion of the Board to do so.]<sup>2</sup>

[(8) In this regulation “a statement of special educational needs” means a statement, plan or assessment made by a local authority, which identifies and assesses the special educational needs of a person and specifies the special educational provision required by that person.]<sup>10</sup>

## Commentary—

*Simon's Taxes* **E2.211**.

## HMRC Manuals—

Tax Credit Technical Manual TCTM2203 (reg 5(1)–(4): definition of a young person).

TCTM2204 (“normal term time” in reg 5(5) takes its natural meaning; in calculating the time spent in pursuit of the course in reg 5(6), do not take account of meal breaks or unsupervised study or homework which is undertaken outside normal hours).

## Amendments—

<sup>1</sup> Words in paras (2) and (5)(b) inserted, and sub-paras (3)(b)(i)–(iii) substituted by CTC (Amendment) Regulations, SI 2003/738 regs 2, 4–6 with effect from 6 April 2003.

<sup>2</sup> Words in paras (1)–(3) substituted; words in paras (3), (4) revoked and inserted; paras (3A), (7) inserted; by CTC (Amendment) Regulations, SI 2006/222 regs 2, 4 with effect from 6 April 2006.

<sup>2</sup> However, a person aged 19 or over on 6 April 2006 is not a qualifying young person, regardless of these amendments: SI 2006/222 reg 1.

<sup>3</sup> Words in para (2) substituted by the Tax Credits (Miscellaneous Amendments) Regulations, SI 2006/766 reg 3 with effect from 6 April 2006.

<sup>4</sup> Words in paras (3)(ab), (3A) inserted, and words in para (5) revoked, by the Child Tax Credit (Amendment) Regulations, SI 2007/2151 regs 2, 4 with effect from 16 August 2007.

<sup>5</sup> Words in paras (3)(ab), (b)(ii), (5) substituted by the Tax Credits (Miscellaneous Amendments) (No 2) Regulations, SI 2008/2169 regs 6, 10 with effect from 1 September 2008.

<sup>6</sup> Words in para (4)(c) inserted by the Employment and Support Allowance (Consequential Provisions) (No 3) Regulations, SI 2008/1879 reg 22(1), (3) with effect from 27 October 2008.

<sup>7</sup> In para (4)(c), comma substituted for word “or”, and words inserted after words “Jobseekers Act 1995” by the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations, SI 2013/630 reg 79 with effect from 29 April 2013.

<sup>8</sup> Para (5A) inserted by the Child Benefit (General) and Child Tax Credit (Amendment) Regulations, 2014/1231, reg 3(1), (3) with effect from 4 June 2014.

<sup>9</sup> Words in para (5) inserted by the Child Benefit (General) and Tax Credits (Miscellaneous Amendments) Regulations, SI 2014/2924 reg 3(1), (2) with effect from 28 November 2014.

<sup>10</sup> Paras (5)(c), (8) inserted by the Tax Credits, Child Benefit, Guardian's Allowance and Childcare Payments (Miscellaneous Amendments) Regulations, SI 2020/297 reg 4(1), (2) with effect from 6 April 2020.

## **6 Entitlement to child tax credit after death of child or qualifying young person**

If—

- (a) a child or qualifying young person dies, and
- (b) a person is (or would, if a claim had been made, have been) entitled to child tax credit in respect of the child or qualifying young person immediately before the death,

that person shall be entitled to child tax credit in respect of the child or qualifying young person for the period of eight weeks immediately following the death or, in the case of a qualifying young person, until the date on which he or she would have attained the age of [twenty]<sup>1</sup>, if earlier.

## Amendments—

<sup>1</sup> Word substituted by CTC (Amendment) Regulations, SI 2006/222 regs 2, 5 with effect from 6 April 2006.

<sup>1</sup> However, a person aged 19 or over on 6 April 2006 is not a qualifying young person, regardless of these amendments: SI 2006/222 reg 1.

### **7 Determination of the maximum rate at which a person or persons may be entitled to child tax credit**

(1) In the following paragraphs [and in regulations 9 to 12 and 14]<sup>4</sup>—

- (a) in the case of a single claim (but not a joint claim), the person making the claim is referred to as the “claimant”; and
- (b) in the case of a joint claim, the members of the ...<sup>1</sup> couple making the claim are referred to as the “joint claimants”.

(2) The maximum rate at which a claimant or joint claimants may be entitled to child tax credit shall be the aggregate of—

- (a) the family element of child tax credit [if the claimant is, or either or both the joint claimants are, responsible for a child or qualifying young person who was born before 6th April 2017]<sup>4</sup>, and
- (b) an individual element of child tax credit, in respect of each child or qualifying young person for whom—
  - (i) the claimant, or
  - (ii) either or both of the joint claimants,
 as the case may be, is or are [responsible, but subject to paragraph (2A);]<sup>4</sup>
- [(c) a disability element of child tax credit in the case of each child or qualifying young person who is disabled or severely disabled.]<sup>4</sup>

[(2A) Where the claimant, or either or both of the joint claimants, is or are responsible for a child or qualifying young person born on or after 6th April 2017 (“A”), the maximum rate referred to in paragraph (2) shall not include an individual element of child tax credit in respect of A unless—

- (a) the claimant is, or the joint claimants are, claiming the individual element of child tax credit for no more than one other child or qualifying young person; or
- (b) an exception applies in relation to A in accordance with regulation 9.]<sup>4</sup>

[(3) The family element of child tax credit is £545.]<sup>2</sup>

(4) The individual element of child tax credit for any child or qualifying young person referred to in paragraph (2)(b) above—

- (a) ...<sup>4</sup>
- (b) ...<sup>4</sup>
- (c) in the case of [a]<sup>4</sup> child, is [£2,830]<sup>6</sup>;
- (d) ...<sup>4</sup>
- (e) ...<sup>4</sup> and
- (f) in the case of [a]<sup>4</sup> qualifying young person, is [£2,830]<sup>6</sup>.

- [(5) The disability element of child tax credit—
- (a) where the child or qualifying young person is disabled, is [£3,415]<sup>6</sup>;
  - (b) where the child or qualifying young person is severely disabled, is [£4,800]<sup>6</sup>.]<sup>5</sup>

## Commentary—

*Simon's Taxes* **E2.213, E2.214, E2.215.**

## HMRC Manuals—

Tax Credit Technical Manual TCTM3001 (summary of maximum rates of CTC).

## Modifications—

Tax Credits (Polygamous Marriages) Regulations, SI 2003/742 regs 22, 25 (words in paras (1)(b), (2)(b) substituted for the purposes of polygamous marriages).

## Amendments—

<sup>1</sup> In para (1)(b), words revoked by the Civil Partnership Act 2004 (Tax Credits, etc) (Consequential Amendments) Order, SI 2005/2919 art 4(1), (4) with effect from 5 December 2005.

<sup>2</sup> Sub-para (3) substituted by the Tax Credits Up-rating Regulations, SI 2011/1035 reg 2 with effect in relation to awards of tax credits for the year beginning on 6 April 2011. This amendment continues to have effect in relation to awards of tax credits for the tax year beginning on 6 April 2012 and subsequent tax years (SI 2012/849 reg 5(a)).

<sup>4</sup> In paras (1), (2), words inserted; whole of para (2A) inserted; in paras (2)(b), (4)(c), (f), words substituted; and paras (4)(a), (b), (d), (e) revoked; by the Child Tax Credit (Amendment) Regulations, SI 2017/387 regs 2, 4 with effect from 6 April 2017.

<sup>5</sup> Para (5) inserted by the Tax Credits and Guardian's Allowance Up-rating etc Regulations, SI 2017/406 reg 3 with effect in relation to awards of tax credits for the tax year beginning on 6 April 2017 and subsequent tax years.

<sup>6</sup> Figures in paras (4)(c), (f), (5)(a), (b) substituted by the Tax Credits, Child Benefit and Guardian's Allowance Up-rating Regulations, SI 2020/298 reg 3 with effect in relation to awards of tax credits for the tax year beginning on 6 April 2020 and subsequent tax years.

## **8 Prescribed conditions for a disabled or severely disabled child or qualifying young person**

- (1) For the purposes of section 9 of the Act a child or qualifying young person—
- (a) is disabled if he satisfies the requirements of paragraph (2); and
  - (b) is severely disabled if he satisfies the requirements of [paragraph (3), (4), (5) or (6)]<sup>4</sup>.
- (2) A person satisfies the requirements of this paragraph if—
- (a) disability living allowance is payable in respect of him, or has ceased to be so payable solely because he is a patient; or
  - [(b) he is certified as severely sight impaired or blind by a consultant ophthalmologist;]<sup>3</sup>
  - (c) he ceased to be so ...<sup>3</sup> certified as [severely sight impaired or]<sup>3</sup> blind within the 28 weeks immediately preceding the date of claim; or
  - (d) personal independence payment is payable in respect of that person, or would be so payable but for regulations made under section 86(1) (hospital in-patients) of the Welfare Reform Act 2012]<sup>1</sup>, or
  - [(e) a payment of disability assistance is payable by the Scottish Ministers under section 31 of the Social Security (Scotland) Act 2018.]<sup>4</sup>
- (3) A person satisfies the requirements of this paragraph if the care component of disability living allowance—
- (a) is payable in respect of him, or
  - (b) would be so payable but for either a suspension of benefit in accordance with regulations under section 113(2) of the Contributions and Benefits Act or an abatement as a consequence of hospitalisation,

at the highest rate prescribed under section 72(3) of that Act.

[(4) A person satisfies the requirements of this paragraph if the daily living component of personal independence payment—

(a) is payable in respect of that person, or

(b) would be so payable but for regulations made under section 86(1) (hospital inpatients) of the Welfare Reform Act 2012,

at the enhanced rate under section 78(2) of that Act.]<sup>1</sup>

[(5) A person satisfies the requirements of this paragraph if an armed forces independence payment is payable in respect of him.]<sup>2</sup>

[(6) A person satisfies the requirements of this paragraph if disability assistance under section 31 of the Social Security (Scotland) Act 2018 is payable at the higher rate in respect of that person.

(7) In this regulation “Scottish Ministers” has the meaning given by section 44(2) of the Scotland Act 1998.]<sup>4</sup>

## Commentary—

*Simon's Taxes* **E2.216**.

## HMRC Manuals—

Tax Credit Technical Manual TCTM2203 (reg 8(2)–(3): definitions of a disabled and severely disabled young person or child).

## Amendments—

<sup>1</sup> Para (2)(d) and preceding word “or” inserted, and para (4) inserted, by the Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations, SI 2013/388 reg 30(1), (3) with effect from 8 April 2013.

<sup>2</sup> Para (5) inserted by the Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order, SI 2013/591 art 7, Schedule para 26(1), (3) with effect from 8 April 2013.

<sup>3</sup> Para (2)(b) substituted, and in para (2)(c) words revoked and words inserted, by the Child Benefit (General) and Tax Credits (Miscellaneous Amendments) Regulations, SI 2014/2924 reg 3(1), (3) with effect from 28 November 2014.

<sup>4</sup> In para (1)(b), words substituted for words “paragraph (3), (4) or (5)”, and paras (2)(e), (6), (7) inserted, by the Tax Credits, Child Benefit, Guardian's Allowance and Childcare Payments (Miscellaneous Amendments) Regulations, SI 2020/297 reg 4(1), (3) with effect from 6 April 2020.

*[Individual element: exceptions to the restriction on numbers*

### **9 Exceptions for the purposes of regulation 7(2A)(b)**

[(1) For the purposes of regulation 7(2A)(b), an exception applies in relation to A if—

(a) A is (in accordance with paragraphs (5) and (6)) the third or subsequent child or qualifying young person for whom the claimant, or either or both of the joint claimants, is or are responsible and either—

(i) any of regulations 10 to 14 applies in relation to A; or

(ii) all, or all but one, of the other children or qualifying young persons (“AA”) for whom the claimant, or either or both of the joint claimants, is or are responsible are adopted within the meaning given by regulation 11 or cared for under a non-parental caring arrangement within the meaning given by regulation 12 (reading references to “A” in those regulations as if they were references to “AA”); or

(b) A is (in accordance with paragraphs (5) and (6)) the first or second child or qualifying young person for whom the claimant, or either or both of the joint claimants, is or are responsible.]<sup>2</sup>

(2) ...<sup>2</sup>

(3) Where an exception applies in relation to A by virtue of paragraph (1), an exception applies also in relation to any other child or qualifying young person who was born on or after 6th April 2017 and for whom the claimant, or either or both of

the joint claimants, is or are responsible, if—

- (a) regulation 7(2A) would (apart from this paragraph) prevent the inclusion of an individual element of child tax credit in respect of that other child or qualifying young person, but would not do so if A were disregarded; and
  - (b) the claimant, or either or both of the joint claimants, was or were already responsible for that other child or qualifying young person before the date on which the claimant, or either or both of the joint claimants, became responsible for A.
- (4) ...<sup>2</sup>
- (5) For the purposes of [this regulation]<sup>2</sup>, whether A is the first, second, third or subsequent child or qualifying young person is determined by treating children and qualifying persons as forming a single class and, subject to paragraph (6), the order of the members within that class is determined by the following date in relation to each member, taking the earliest date first:—
- (a) where the claimant, or at least one of the joint claimants, is the member's parent or step-parent (in either case, other than by adoption), the member's date of birth; or
  - (b) in any other case, the date on which the claimant, or either or both of the joint claimants, became responsible for the member.
- [(6) In a case where the date determined under paragraph (5) is the same in respect of two or more members, their order (as between themselves only) is to be such as the Board determines to be appropriate to ensure that the individual element of child tax credit is included in respect of the greatest number of members.]<sup>2</sup>
- (7) Where joint claimants became responsible for a child or qualifying young person on different dates, any reference in this regulation to the date on which either or both of the joint claimants became responsible for that child or qualifying young person is a reference to the earliest of those dates.
- (8) ...<sup>2</sup>]<sup>1</sup>

## Amendments—

<sup>1</sup> Regulations 9–14 inserted by the Child Tax Credit (Amendment) Regulations, SI 2017/387 with effect from 6 April 2017.

<sup>2</sup> Paras (1), (6) substituted, paras (2), (4), (8) revoked, and words in para (5) substituted for words “paragraphs (1) and (2)”, by the Child Tax Credit (Amendment) Regulations, SI 2018/1130 regs 2, 3 with effect from 28 November 2018.

<sup>2</sup> Paragraphs (1), (2), (4), (6), and (8) previously read as follows—  
[BILLB

- “(1) For the purposes of regulation 7(2A)(b), an exception applies in relation to A if—
- (a) A is (in accordance with paragraphs (5) and (6)) the third or subsequent child or qualifying young person for whom the claimant, or either or both of the joint claimants, is or are responsible and any of regulations 10 to 14 applies in relation to A; or
  - (b) A is (in accordance with paragraphs (5) and (6)) the first or second child or qualifying young person for whom the claimant, or either or both of the joint claimants, is or are responsible and the condition in paragraph (2) is met.
- (2) The condition in this paragraph is met—
- (a) where A is the second child or qualifying young person, if—
    - (i) there is another child or qualifying young person for whom the claimant, or either or both of the joint claimants, is or are responsible;
    - (ii) that other child or qualifying young person was born before 6th April 2017;
    - (iii) the claimant, or either or both of the joint claimants, was or were already responsible for A before the date on which the claimant, or either or both of the joint claimants, became responsible for that other child or qualifying young person; and
    - (iv) regulation 11 or 12 would have applied in relation to that other child or qualifying young person if references in those regulations to A were references to that other child or qualifying young person;

(b) where A is the first child or qualifying young person, if there is more than one child or qualifying young person who fulfils the description set out in paragraphs (i) to (iv) of sub-paragraph (a).

(4) Where any of regulations 10 to 14 applies in relation to more than one child or qualifying young person, or different ones apply in relation to different children or qualifying young persons—

(a) the reference to A in paragraph (3)(a) is a reference to all the children or qualifying young persons in respect of whom at least one of those regulations applies; and

(b) the date referred to in paragraph (3)(b) is the date on which the claimant, or either or both of the joint claimants, became responsible for the first such child or qualifying young person for whom the claimant, or either or both of the joint claimants, became responsible.

(6) In a case where—

(a) the date determined under paragraph (5) is the same in respect of two or more members, or

(b) the claimant, or either of the joint claimants, gave birth to a member less than 10 months after becoming responsible for a member in relation to whom regulation 12 applies,

their order (as between themselves only) is to be such as the Board determines to be appropriate to ensure that the individual element of child tax credit is included in respect of the greatest number of members.

(8) In paragraph (2)(a)(iv), the reference to regulation 11 includes a reference to regulation 14, but only where regulation 14 would have applied because—

(a) the reference to regulation 11 in regulation 14(2)(b) is the reason why the criterion in regulation 14(2)(b) or (5)(b) would have been satisfied; or

(b) the reference to regulation 11 in regulation 14(4)(b) is the reason why the criterion in that sub-paragraph would have been satisfied.”.

[BILLE

**[10 Multiple births**

This regulation applies in relation to A if—

(a) the claimant, or at least one of the joint claimants, is a parent (other than an adoptive parent) of A;

(b) A was one of two or more children born as a result of the same pregnancy;

(c) the claimant, or either or both of the joint claimants, is or are responsible for at least two of the children or qualifying young persons born as a result of that pregnancy; and

(d) A is not the first in the order of those children or qualifying young persons as determined in accordance with regulation 9.]<sup>1</sup>

**Amendments—**

<sup>1</sup> Regulations 9–14 inserted by the Child Tax Credit (Amendment) Regulations, SI 2017/387 with effect from 6 April 2017.

**[11 Adoption**

(1) This regulation applies in relation to A if A has been—

(a) placed for adoption with the claimant or either or both of the joint claimants; or

(b) adopted by the claimant, or either or both of the joint claimants, in accordance with—

(i) the Adoption and Children Act 2002 (“the 2002 Act”);

(ii) the Adoption and Children (Scotland) Act 2007 (“the 2007 Act”); or

(iii) the Adoption (Northern Ireland) Order 1987 (“the 1987 Order”).

(2) But this regulation does not apply in relation to A if—

- (a) the claimant or at least one of the joint claimants—
  - (i) was a step-parent of A immediately prior to the adoption; or
  - (ii) has been a parent of A (other than by adoption) at any time;
- (b) the adoption order was made as a Convention adoption order within the meaning of—
  - (i) section 144 of the 2002 Act;
  - (ii) section 119(1) of the 2007 Act; or
  - (iii) article 2(2) of the 1987 Order; or
- (c) prior to the adoption, A was adopted by the claimant, or either or both of the joint claimants, under the law of any country or territory outside the British Islands.]<sup>1</sup>

## Amendments—

<sup>1</sup> Regulations 9–14 inserted by the Child Tax Credit (Amendment) Regulations, SI 2017/387 with effect from 6 April 2017.

### [12 Non-parental caring arrangements

- (1) This regulation applies in relation to A if the claimant or at least one of the joint claimants—
  - (a) is a friend or family carer in relation to A; or
  - (b) is responsible for a child or qualifying young person who is a parent of A.
- (2) But this regulation does not apply in relation to A if the claimant, or at least one of the joint claimants, is—
  - (a) a parent of A; or
  - (b) a step-parent of A.
- (3) In this regulation, “friend or family carer” means a person who is responsible for A and—
  - (a) is named, in—
    - (i) a child arrangements order under section 8 of the Children Act 1989, or
    - (ii) a residence order under article 8 of the Children (Northern Ireland) Order 1995,
 as a person with whom A is to live;
  - (b) is a guardian of A appointed under—
    - (i) section 5 of the Children Act 1989;
    - (ii) section 7 of the Children (Scotland) Act 1995; or
    - (iii) article 159 or 160 of the Children (Northern Ireland) Order 1995;
  - (c) is a special guardian of A appointed under section 14A of the Children Act 1989;
  - (d) is entitled to a guardian’s allowance under section 77 of the Contributions and Benefits Act or section 77 of the Contributions and Benefits (Northern Ireland) Act 1992 in respect of A;
  - (e) is a person in whose favour a kinship care order, as defined in section 72(1) of the Children and Young People (Scotland) Act 2014, subsists in relation to A;
  - (f) is a person in whom one or more of the parental responsibilities or parental rights described in section 1 or 2 of [the Children (Scotland) Act 1995]<sup>2</sup> are vested by a permanence order made in respect of A under section 80 of the Adoption and Children (Scotland) Act 2007;
  - (g) fell within any of paragraphs (a) to (f) immediately prior to A’s 16th birthday and has since continued to be responsible for A; or

- (h) has undertaken the care of A in circumstances in which it is likely that A would otherwise be looked after by a local authority.]<sup>1</sup>

## Amendments—

<sup>1</sup> Regulations 9–14 inserted by the Child Tax Credit (Amendment) Regulations, SI 2017/387 with effect from 6 April 2017.

<sup>2</sup> In para (3)(f), words substituted for words “that Act” by the Child Tax Credit (Amendment) Regulations, SI 2018/1130 regs 2, 4 with effect from 28 November 2018.

### [13 Non-consensual conception

(1) This regulation applies in relation to A if—

- (a) the claimant is A’s parent; and
- (b) the Board determines that—
- (i) A is likely to have been conceived as a result of sexual intercourse to which the claimant did not agree by choice, or did not have the freedom and capacity to agree by choice; and
- (ii) the claimant is not living at the same address as the other party to that intercourse (“B”).

#### *Control or coercion*

(2) For the purposes of paragraph (1)(b)(i), the circumstances in which the claimant is to be treated as not having the freedom or capacity to agree by choice are to include (but are not limited to) circumstances in which, at or around the time A was conceived—

- (a) B was—
- (i) personally connected to the claimant; and
- (ii) repeatedly and continuously engaging in behaviour towards the claimant that was controlling or coercive; and
- (b) that behaviour had a serious effect on the claimant.

(3) For the purposes of paragraph (2)(a)(i), B is personally connected to the claimant if—

- (a) B is in an intimate personal relationship with the claimant; or
- (b) B and the claimant live together and—
- (i) are members of the same family; or
- (ii) have previously been in an intimate personal relationship with each other.

(4) For the purposes of paragraph (2)(b), behaviour has a serious effect on the claimant if—

- (a) it causes the claimant to fear, on at least two occasions, that violence will be used against the claimant; or
- (b) it causes the claimant serious alarm or distress which has a substantial adverse effect on the complainant’s day-to-day activities.

(5) For the purposes of paragraph (3)(b)(i), B and the claimant are members of the same family if—

- (a) they are, or have been, married to each other;
- (b) they are, or have been, civil partners of each other;
- (c) they are relatives (within the meaning of section 63(1) of the Family Law Act 1996);
- (d) they have agreed to marry each other (whether or not the agreement has been terminated);
- (e) they have entered into a civil partnership agreement (within the meaning of section 73 or 197 of the Civil Partnership Act 2004), whether or not the agreement has been terminated;



- (f) they are both parents of the same child;
- (g) they have, or have had, parental responsibility (within the meaning of section 3 of the Children Act 1989 or article 6 of the Children (Northern Ireland) Order 1995) for the same child; or
- (h) they have, or have had, in respect of the same child, one or more of the parental responsibilities or parental rights described in section 1 or 2 of the Children (Scotland) Act 2007.

*Determinations*

(6) The Board may make a determination under paragraph (1)(b)(i) if, and only if—

- (a) the claimant provides evidence from an approved person which demonstrates that—
  - (i) the claimant has had contact with that person or another approved person; and
  - (ii) the claimant’s circumstances are consistent with those of a person to whom paragraph (1)(a) and (b)(i) apply; or
- (b) there has been—
  - (i) a conviction for—
    - (aa) an offence of rape under section 1 of the Sexual Offences Act 2003, section 1 of the Sexual Offences (Scotland) Act 2009 or article 5 of the Sexual Offences (Northern Ireland) Order 2008,
    - (bb) an offence of controlling or coercive behaviour in an intimate or family relationship under section 76 of the Serious Crime Act 2015, or
    - (cc) any offence under the law of any jurisdiction outside the United Kingdom that the Board considers to be analogous to an offence mentioned in paragraph (aa) or (bb), or
  - (ii) an award under the Criminal Injuries Compensation Scheme in respect of a relevant criminal injury sustained by the claimant,

and it appears to the Board to be likely (disregarding the matters mentioned in paragraph (7)) that the offence was committed, or the relevant criminal injury was caused, by B and either resulted in the conception of A or diminished the claimant’s freedom or capacity to agree by choice to the sexual intercourse which resulted in that conception.

(7) In considering, for the purposes of paragraph (6)(b), the likelihood that the offence or injury resulted in the conception of A the matters to be disregarded are any possibilities that the conception of A may have resulted from another such offence or injury, regardless of whether any conviction or award has occurred in respect of that other offence or injury.

(8) In paragraph (6)(a), “approved person” means a person of a description specified on a list approved by the Board for the purposes of this regulation and acting in the capacity referred to in the description.

(9) In paragraph (6)(b)(ii), “relevant criminal injury” means—

- (a) a sexual offence (including a pregnancy sustained as a direct result of being the victim of a sexual offence),
- (b) physical abuse of an adult, including domestic abuse, or
- (c) mental injury,

as described in the tariff of injuries in the Criminal Injuries Compensation Scheme.

(10) In paragraphs (6)(b)(ii) and (9), “Criminal Injuries Compensation Scheme” means the Criminal Injuries Compensation Scheme or the Northern Ireland Criminal Injuries Compensation Scheme as established from time to time under the Criminal Injuries Compensation Act 1995 or the Criminal Injuries Compensation (Northern Ireland) Order 2002 respectively.

(11) The Board may treat the condition in paragraph (6)(a) as met if the Board are satisfied that the claimant has provided the evidence to the Secretary of State for corresponding purposes in relation to universal credit, income support or old style JSA.

(12) The Board may make a determination under paragraph (1)(b)(ii) if the claimant confirms that the criterion in paragraph

(1)(b)(ii) is met.

*Application to single and joint claims*

(13) In this regulation, “claimant”, in relation to a single claim, means the person who makes the claim.

(14) In relation to a joint claim—

(a) paragraph (1)(b)(i) applies if it applies to either of the joint claimants; and

(b) references in the other provisions of this regulation to “the claimant” mean the joint claimant to whom paragraph (1)(b)(i) applies (and, in paragraphs (6) and (11) include a joint claimant who purports to meet that criterion).

(15) In paragraph (14), “joint claimant” means a member of the couple making the claim.<sup>1</sup>

## Amendments—

<sup>1</sup> Regulations 9–14 inserted by the Child Tax Credit (Amendment) Regulations, SI 2017/387 with effect from 6 April 2017.

### **[14 Continuation of certain exceptions**

(1) This regulation applies in relation to A if—

(a) no other exception applies in relation to A under these Regulations;

(b) the claimant, or at least one of the joint claimants, is A’s step-parent (and, in this Regulation, “C” means the claimant or a joint claimant who is A’s step-parent); and

(c) paragraph (2), (4) or (5) applies.

(2) This paragraph applies if—

(a) C has previously been entitled to child tax credit jointly with a parent of A;

(b) immediately before that joint entitlement ceased, an exception applied under regulation 9(1) ...<sup>2</sup> in relation to A;

(c) since that joint entitlement ceased, C has continuously been entitled to child tax credit (whether or not jointly with another person); and

(d) where the criterion in sub-paragraph (b) is met by virtue of ...<sup>3</sup> regulation 10, the condition in paragraph (3) is met.

(3) The condition in this paragraph is that—

(a) the claimant, or either or both of the joint claimants, is or are responsible for one or more other children or qualifying young persons born as a result of the same pregnancy as A; and

(b) A is not the first in the order of those children as determined in accordance with regulation 9.

*Where a corresponding exception previously applied for the purposes of another benefit*

(4) This paragraph applies if—

(a) within the 6 months immediately preceding the day on which a relevant CTC entitlement began—

(i) C was entitled to an award of universal credit as a member of a couple jointly with a parent of A; or

(ii) C and a parent of A were a couple and either of them was entitled to an award of income support or old style JSA;

(b) immediately before the entitlement mentioned in sub-paragraph (a)(i) or (ii) ceased, the amount of that entitlement included an amount in respect of A by virtue of any exception corresponding, for the purposes of that entitlement, to an exception under regulation 9(1) ...<sup>2</sup> in relation to A;

(c) C has continuously been entitled to child tax credit (whether or not jointly with another person) since the

relevant CTC entitlement mentioned in sub-paragraph (a); and

- (d) where the criterion in sub-paragraph (b) is met by virtue of ...<sup>3</sup> regulation 10, the condition in paragraph (3) is met.
- (5) This paragraph applies if—
- (a) within the 6 months immediately preceding the day on which a relevant CTC entitlement began—
- (i) C was entitled to an award of universal credit (whether or not as a member of a couple jointly with another person); or
- (ii) C was entitled to an award of income support or old style JSA (whether or not C was in a couple with another person);
- (b) immediately before the entitlement mentioned in sub-paragraph (a)(i) or (ii) ceased, the amount of that entitlement included an amount in respect of A by virtue of any exception corresponding, for the purposes of that entitlement, to the exception that, under regulation 9(1), applies where this regulation applies;
- (c) C has continuously been entitled to child tax credit (whether or not jointly with another person) since the relevant CTC entitlement mentioned in sub-paragraph (a); and
- (d) where the criterion in sub-paragraph (b) is met by virtue of [regulation 10]<sup>3</sup>, the condition in paragraph (3) is met.

#### *Interpretation*

- (6) In this regulation—
- “couple” has the same meaning as in Part 1 of the Welfare Reform Act 2012; and
- “relevant CTC entitlement” means an entitlement of C (whether or not jointly with another person) to child tax credit.
- (7) For the purposes of this regulation, an entitlement of C to child tax credit is to be regarded as continuous despite any interruption of less than 6 months in such an entitlement.<sup>1</sup>

#### **Amendments—**

<sup>1</sup> Regulations 9–14 inserted by the Child Tax Credit (Amendment) Regulations, SI 2017/387 with effect from 6 April 2017.

<sup>2</sup> In paras (2)(b), (4)(b) words “by virtue of regulation 10, 11 or 13 applying” revoked by the Child Tax Credit (Amendment) Regulations, SI 2018/1130 regs 2, 5 with effect from 28 November 2018.

<sup>3</sup> In paras (2)(d), (4)(d) words “its reference to” revoked, and in para (5)(d) words substituted for words “the reference to regulation 10 in paragraph (2)” by the Tax Credits, Child Benefit and Childcare Payments (Miscellaneous Amendments) Regulations, SI 2019/364 reg 4(1), (3) with effect from 21 March 2019.