STATUTORY INSTRUMENTS

2017 No. 387

TAX CREDITS

The Child Tax Credit (Amendment) Regulations 2017

Made - - - -	*14th March 2017*
Laid before Parliament	*15th March 2017*
Coming into force - -	*6th April 2017*

The Treasury make the following Regulations in exercise of the powers conferred by sections 9, 43, 65(1), (7) and (9), and 67 of the Tax Credits Act 2002(**1**).

Citation and commencement

1. These Regulations may be cited as the Child Tax Credit (Amendment) Regulations 2017 and come into force on 6th April 2017.

Amendment of the Child Tax Credit Regulations 2002

2. The Child Tax Credit Regulations 2002(**2**) are amended in accordance with regulations 3 to 5 below.

3. In regulation 2(1) (interpretation)—

(a) insert as the first definition—

""A", as a noun, has the meaning given by regulation 7(2A);";

(b) in the definition of "claimant", for the words from "except in regulation 7" to the end substitute "except in regulations 7 and 9 to 14 (for which see regulations 7(1) and 13(13) to (15))";

(c) before the definition of "joint claim" insert—

""income support" means income support under section 124 of the Contributions and Benefits Act;";

(d) after the definition of the "normally living with test" insert—

""old style JSA" means a jobseeker's allowance under the Jobseekers Act 1995(**3**) as that Act has effect apart from the amendments made by Part 1 of Schedule 14

(**1**) 2002 c. 21; section 9 was amended by section 13 of the Welfare Reform and Work Act 2016 (c. 7). Section 67 is cited for the definition of 'prescribed'.
(**2**) S.I. 2002/2007; relevant amending instruments are S.I. 2005/2919, 2015/451, 2015/567.
(**3**) 1995 c. 18.

to the Welfare Reform Act 2012(**4**) that remove references to an income-based allowance;";

(e) after the definition of "remunerative work" insert—

""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(**5**)), 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;".

4. In regulation 7 (determination of the maximum rate at which a person or persons may be entitled to child tax credit)—

(a) in paragraph (1), after "paragraphs" insert "and in regulations 9 to 12 and 14";

(b) in paragraph (2)(a), after "credit" insert "if the claimant is, or either or both the joint claimants are, responsible for a child or qualifying young person who was born before 6thApril 2017";

(c) in paragraph (2)(b), for "responsible." substitute "responsible, but subject to paragraph (2A); and";

(d) after paragraph (2)(b) insert—

"(c) a disability element of child tax credit in the case of each child or qualifying young person who is disabled or severely disabled.";

(e) after paragraph (2) insert—

"(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."; and

(f) in paragraph (4)—

(i) omit sub-paragraphs (a), (b), (d) and (e); and

(ii) in sub-paragraphs (c) and (f), for "any other" substitute "a".

5. After regulation 8 insert—

(**4**) 2012 c. 5.
(**5**) S.I. 2003/742, to which there are amendments not relevant to these Regulations.

"Individual element: exceptions to the restriction on numbers

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

9.—(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).

(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) 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.

(5) For the purposes of paragraphs (1) and (2), 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—

(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.

(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) 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)(**6**) 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.

Multiple births

10. 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.

Adoption

11.—(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

(**6**) See the reference to "paragraph (2)" in regulation 14(5)(b).

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

(i) the Adoption and Children Act 2002(**7**) ("the 2002 Act");

(ii) the Adoption and Children (Scotland) Act 2007(**8**) ("the 2007 Act"); or

(iii) the Adoption (Northern Ireland) Order 1987(**9**) ("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.

Non-parental caring arrangements

12.—(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(**10**), or

(ii) a residence order under article 8 of the Children (Northern Ireland) Order 1995(**11**),

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(**12**); or

(iii) article 159 or 160 of the Children (Northern Ireland) Order 1995;

(**7**) 2002 c. 38.
(**8**) 2007 asp 4.
(**9**) S.I. 1987/2203 (N.I. 22).
(**10**) 1989 c. 41; section 8 was amended to refer to child arrangement orders by the Children and Families Act 2014 (c. 6), section 12 and Schedule 2, paragraphs 1 and 3.
(**11**) S.I. 1995/755 (N.I. 2).
(**12**) 1995 c. 36.