STATUTORY INSTRUMENTS

2001 No. 893

SOCIAL SECURITY, NORTHERN IRELAND
TAXES, NORTHERN IRELAND

The Tax Credits (Miscellaneous Amendments No. 3) (Northern Ireland) Regulations 2001

Made - - - -	*9th March 2001*
Laid before Parliament	*12th March 2001*
Coming into force in accordance with regulation 1(2) and (3)	

The Treasury, in exercise of the powers conferred upon them by sections 127(3), 128(6), 132(3), 133(1) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**(a)**, and section 2(1)(a) and (4) of, and paragraphs 3(c), (d) and (g) and 22(a) of Schedule 2 to, the Tax Credits Act 1999**(b)**, and the Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 5(1)(b) and (k) and (2)(c) and (d) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992**(c)**, section 133(2)(c) and (d) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**(d)** and section 2(1)(c) of, and paragraphs 7(c) and (d) and 22(b) of Schedule 2 to, the Tax Credits Act 1999, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tax Credits (Miscellaneous Amendments No. 3) (Northern Ireland) Regulations 2001.

(2) Except for regulation 19, these Regulations shall come into force on 4th April 2001.

(3) Regulation 19 shall come into force on 10th April 2001 immediately after the Tax Credits (Claims and Payments) (Northern Ireland) (Amendment) Regulations 2001**(e)**.

(4) Regulations 4 to 9 and 12 to 17 shall have effect in relation to claims which are made on or after 4th April 2001.

(5) Regulations 10 and 18 shall have effect in relation to award periods which are current on or after 4th April 2001.

(6) Regulation 19 shall have effect in relation to claims which are made on or after 10th April 2001.

(a) 1992 c. 7. Sections 127 and 128 were amended by paragraphs 1 and 4(g) and (h) of Schedule 1 to the Tax Credits Act 1999 (c. 10). Section 133(1) is cited because of the definition of the word "prescribed".

(b) 1999 c. 10.

(c) 1992 c. 8. Section 5(2)(c) and (d) was amended by paragraphs 1 and 5(a) of Schedule 1 to the Tax Credits Act 1999. Section 165 was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

(d) Section 133(2)(d) was substituted by paragraph 18(3) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)).

(e) S.I. 2001/568.

Interpretation

2. In these Regulations—

"award periods" means award periods of disabled person's tax credit or, as the case may be, working families' tax credit;

"the Board" means the Commissioners of Inland Revenue;

"claims" means claims for working families' tax credit or disabled person's tax credit;

"the Disability Working Allowance Regulations" means the Disability Working Allowance (General) Regulations (Northern Ireland) 1992**(a)**;

"the Family Credit Regulations" means the Family Credit (General) Regulations (Northern Ireland) 1987**(b)**.

Amendments to the Disability Working Allowance Regulations

3.—(1) Amend regulation 2 of the Disability Working Allowance Regulations as follows.

(2) After the definition of "employment zone contractor"**(c)** insert the following definition—

""extra statutory maternity pay" means a payment or payments made by an employer to an employee during a maternity pay period in order to supplement statutory maternity pay that is paid to that employee for that period;".

(3) After the definition of "lower rate"**(d)** insert the following definition—

""maternity allowance" shall be construed in accordance with section 35 of the Contributions and Benefits Act**(e)**;".

(4) After the definition of "sports award"**(f)** insert the following definitions—

""statutory maternity pay" and "maternity pay period" shall be construed in accordance with Part XII of the Contributions and Benefits Act;".

(5) After the definition of "subsistence allowance"**(g)** insert the following definition—

""surrogate child" means a child in respect of whom an order has been made under section 30 of the Human Fertilisation and Embryology Act 1990**(h)**;".

4.—(1) Amend regulation 6 of the Disability Working Allowance Regulations as follows.

(2) In paragraph (4)**(i)**—

(a) in sub-paragraph (c) for the words "this paragraph" substitute "sub-paragraph (b)";

(b) after sub-paragraph (c) insert the following sub-paragraph—

"or

(d) in the case of a woman on maternity leave at the date of the claim, the hours worked shall be calculated on the basis of a declaration made by her of the average hours worked per week prior to the commencement of her maternity leave.".

(3) In paragraph (5)**(j)** after sub-paragraph (d) add the following sub-paragraph—

"or

(e) cannot satisfy the requirements of sub-paragraph (a) or (b) above at the date of claim because she is on maternity leave at that date but—

(i) prior to the commencement of her maternity leave, she worked, on average, not less than 16 hours a week, and

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(a) S.R. 1992 No. 78.
(b) S.R. 1987 No. 463.
(c) Inserted by regulation 2 of S.I. 2000/796.
(d) Inserted by regulation 2(2)(a) of S.R. 1992 No. 403.
(e) Section 35 was amended by article 4(a) of the Still-Birth (Definition) (NI) Order 1992 (S.I. 1992/1310 (N.I. 10)), regulation 2(3) of S.R. 1994 No. 176 and article 50 of S.I. 1999/3147 (N.I. 11).
(f) Inserted by regulation 2 of S.R. 1999 No. 342.
(g) Inserted by regulation 2 of S.I. 2000/796.
(h) 1990 c. 37.
(i) Paragraph (4) was amended by regulation 5(3)(a) of S.R. 1995 No. 86 and regulation 4(3) of S.I. 2000/2979.
(j) Paragraph (5) was amended by regulation 2(3)(c) of S.R. 1992 No. 403 and regulation 4(5) of S.I. 2000/2979.

(ii) she is entitled to maternity allowance or statutory maternity pay at the date of the claim,".

5.—(1) Amend regulation 16 of the Disability Working Allowance Regulations as follows.

(2) In each of paragraphs (2) to (5) for the words "paragraph (7)" substitute "paragraphs (7), (8A), (8B) and (8C)".

(3) After paragraph (8) insert the following paragraphs—

"(8A) Where—

(a) the claimant is entitled at the date of the claim to statutory maternity pay and is or will be receiving extra statutory maternity pay from her employer, and

(b) the next payment from her employer following the date of the claim is a payment which will include statutory maternity pay paid to her for a full pay period at the lower rate only,

the Board shall require the claimant to furnish them with an estimate of her likely earnings and statutory maternity pay to be contained in that payment, and her normal weekly earnings shall be determined by taking account of that estimate.

(8B) Where—

(a) the claimant is entitled at the date of the claim to statutory maternity pay and is or will be receiving extra statutory maternity pay from her employer,

(b) the claim is made during a maternity pay period and at a time when less than half of that maternity pay period has expired, and

(c) in consequence the next payment from her employer following the date of the claim is a payment which will not include statutory maternity pay paid to her for a full pay period at the lower rate only,

the Board shall require the claimant to furnish them with an estimate of her likely earnings and statutory maternity pay to be contained in the first future payment from her employer in which statutory maternity pay will be paid to her at the lower rate only, and her normal weekly earnings shall be determined by taking account of that estimate.

(8C) Where—

(a) the claimant is entitled at the date of the claim to statutory maternity pay and is or will be receiving extra statutory maternity pay from her employer,

(b) the claim is made during a maternity pay period and at a time when more than half of that maternity pay period has expired, and

(c) in consequence the next payment from her employer following the date of the claim is a payment which will not include statutory maternity pay paid to her for a full pay period at the lower rate only,

the Board shall require the claimant to furnish them with details of her earnings and statutory maternity pay contained in the payment from her employer immediately preceding the date of the claim, and her normal weekly earnings shall be determined accordingly.".

6.—(1) Amend regulation 21 of the Disability Working Allowance Regulations**(a)** as follows.

(2) After paragraph (4) add the following paragraphs—

"(5) An employed earner shall not be treated as being in receipt of earnings in any assessment period as long as she is entitled to maternity allowance at the date of the claim.

(6) An employed earner shall not be treated as being in receipt of earnings in any assessment period as long as she is entitled to statutory maternity pay at the date of the claim and is neither receiving nor expecting to receive at that date extra statutory maternity pay from her employer.".

7.—(1) Amend regulation 22 of the Disability Working Allowance Regulations as follows.

(a) Regulation 21 was amended by regulation 2(4) of S.R. 1993 No. 120, regulation 2(1)(c) of S.R. 1994 No. 249 and regulation 26(5) and (6) of S.I. 1999/2488.

(2) In paragraph (4)**(a)** after the words "regulation 16(8)" insert ", (8A) or (8B)".

8.—(1) Amend regulation 24 of the Disability Working Allowance Regulations as follows.

(2) After paragraph (3)**(b)** add the following paragraph—

"(4) A self-employed earner shall not be treated as being in receipt of earnings in any assessment period as long as she is entitled to maternity allowance at the date of the claim.".

9.—(1) Amend regulation 51A of the Disability Working Allowance Regulations**(c)** as follows.

(2) After paragraph (2) insert the following paragraph—

"(2ZA) A person is not engaged in remunerative work for the purposes of paragraph (1) where that person is treated as being in remunerative work by virtue only of either—

(a) paragraph (5)(c) of regulation 6 (recognised, customary or other holiday) in circumstances where the absence from work arises from the need to care for a recently adopted child or young person or from the acquisition of a surrogate child, or

(b) paragraph (5)(e) of that regulation (woman on maternity leave),

unless immediately prior to the adoption of the child or young person or the granting of the parental order for the surrogate child or the birth of the child (as the case may be) that person was paying, or had incurred, relevant childcare charges for another child or other children of her household.".

(3) In paragraph (2A)**(d)** after sub-paragraph (c) add the following sub-paragraph—

"(d) where paragraph (2ZA) applies, in the definition of "relevant childcare charges" the references to a child of the claimant's family do not include references to any child born or child or young person adopted or surrogate child acquired during the period of absence or maternity leave.".

10. After regulation 54 insert the following regulation—

"**Surrendering an award following birth or adoption etc. of child**

54A.—(1) An existing award of disabled person's tax credit shall cease to have effect if the claimant or partner elects, by notice to the Board, to surrender it following the birth of a child, the adoption of a child or young person or the granting of a parental order for a surrogate child.

(2) The award shall terminate with effect from—

(a) the day on which the notice is given to the Board, if that day is a Monday, or

(b) the Monday following the day on which the notice is given, if that day is other than a Monday.".

Amendments to the Family Credit Regulations

11.—(1) Amend regulation 2 of the Family Credit Regulations as follows.

(2) After the definition of "employment zone contractor"**(e)** insert the following definition—

" "extra statutory maternity pay" means a payment or payments made by an employer to an employee during a maternity pay period in order to supplement statutory maternity pay that is paid to that employee for that period;".

(3) After the definition of "lower rate"**(f)** insert the following definition—

" "maternity allowance" has the meaning given by section 35 of the Contributions and Benefits Act;".

(a) Paragraph (4) was amended by regulation 2(4) of S.R. 1992 No. 403, regulation 2(2) of S.R. 1994 No. 77 and regulation 4(4) and (5)(b) of S.R. 1994 No. 327.

(b) Paragraph (3) was added by regulation 4(6)(b) of S.R. 1994 No. 327 and amended by regulation 3(3) of S.R. 1999 No. 342.

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

(d) Paragraph (2A) was inserted by regulation 7(3) of S.R. 1996 No. 476 and amended by regulation 19 of S.I. 1999/2488.

(e) Inserted by regulation 2 of S.I. 2000/796.

(f) Inserted by regulation 3(2) of S.R. 1992 No. 403.

(4) After the definition of "sports award"**(a)** insert the following definitions—

" "statutory maternity pay" and "maternity pay period" shall be construed in accordance with Part XII of the Contributions and Benefits Act;".

(5) After the definition of "subsistence allowance"**(b)** insert the following definition—

" "surrogate child" means a child in respect of whom an order has been made under section 30 of the Human Fertilisation and Embryology Act 1990;".

12.—(1) Amend regulation 4 of the Family Credit Regulations as follows.

(2) In paragraph (4)**(c)** after sub-paragraph (c) insert the following sub-paragraph—

"or

(d) in the case of a woman on maternity leave at the date of the claim, the hours worked shall be calculated on the basis of a declaration made by her of the average hours worked per week prior to the commencement of her maternity leave.".

(3) In paragraph (5)**(d)** after sub-paragraph (d) add the following sub-paragraph—

"or

(e) cannot satisfy the requirements of sub-paragraph (a) or (b) above at the date of claim because she is on maternity leave at that date but—

(i) prior to the commencement of her maternity leave, she worked, on average, not less than 16 hours a week, and

(ii) she is entitled to maternity allowance or statutory maternity pay at the date of the claim,".

13.—(1) Amend regulation 14 of the Family Credit Regulations**(e)** as follows.

(2) In paragraph (1) for the words "paragraphs (3) to (6)" substitute "paragraphs (3) to (6C)".

(3) In paragraph (2) for the words "paragraphs (2A) to (6)**(f)**" substitute "paragraphs (2A) to (6C)".

(4) After paragraph (6) insert the following paragraphs—

"(6A) Where—

(a) the claimant is entitled at the date of the claim to statutory maternity pay and is or will be receiving extra statutory maternity pay from her employer, and

(b) the next payment from her employer following the date of the claim is a payment which will include statutory maternity pay paid to her for a full pay period at the lower rate only,

the Board shall require the claimant to furnish them with an estimate of her likely earnings and statutory maternity pay to be contained in that payment, and her normal weekly earnings shall be determined by taking account of that estimate.

(6B) Where—

(a) the claimant is entitled at the date of the claim to statutory maternity pay and is or will be receiving extra statutory maternity pay from her employer,

(b) the claim is made during a maternity pay period and at a time when less than half of that maternity pay period has expired, and

(c) in consequence the next payment from her employer following the date of the claim is a payment which will not include statutory maternity pay paid to her for a full pay period at the lower rate only,

the Board shall require the claimant to furnish them with an estimate of her likely earnings and statutory maternity pay to be contained in the first future payment from her employer in

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(a) Inserted by regulation 2(1) and (2)(b) of S.R. 1999 No. 342.
(b) Inserted by regulation 2 of S.I. 2000/796.
(c) Paragraph (4) was amended by regulation 4(3)(a) of S.R. 1995 No. 86, regulation 2 of S.R. 1997 No. 152, regulation 3 of S.I. 2000/2189 and regulation 4(3) of S.I. 2000/2979.
(d) Paragraph (5) was amended by regulation 4(5) of S.I. 2000/2979.
(e) Regulation 14 was substituted by regulation 4 of S.R. 1992 No. 148.
(f) Inserted by regulation 3(3)(a)(i) of S.R. 1994 No. 327.

which statutory maternity pay will be paid to her at the lower rate only, and her normal weekly earnings shall be determined by taking account of that estimate.

(6C) Where—

(a) the claimant is entitled at the date of the claim to statutory maternity pay and is or will be receiving extra statutory maternity pay from her employer,

(b) the claim is made during a maternity pay period and at a time when more than half of that maternity pay period has expired, and

(c) in consequence the next payment from her employer following the date of the claim is a payment which will not include statutory maternity pay paid to her for a full pay period at the lower rate only,

the Board shall require the claimant to furnish them with details of her earnings and statutory maternity pay contained in the payment from her employer immediately preceding the date of the claim, and her normal weekly earnings shall be determined accordingly.".

14.—(1) Amend regulation 19 of the Family Credit Regulations**(a)** as follows.

(2) After paragraph (4) add the following paragraphs—

"(5) An employed earner shall not be treated as being in receipt of earnings in any assessment period as long as she is entitled to maternity allowance at the date of the claim.

(6) An employed earner shall not be treated as being in receipt of earnings in any assessment period as long as she is entitled to statutory maternity pay at the date of the claim and is neither receiving nor expecting to receive at that date extra statutory maternity pay from her employer.".

15.—(1) Amend regulation 20 of the Family Credit Regulations as follows.

(2) In paragraph (4)**(b)** after the words "paragraph (6)" insert ", (6A) or (6B)".

16.—(1) Amend regulation 21 of the Family Credit Regulations as follows.

(2) After paragraph (3)**(c)** add the following paragraph—

"(4) A self-employed earner shall not be treated as being in receipt of earnings in any assessment period as long as she is entitled to maternity allowance at the date of the claim.".

17.—(1) Amend regulation 46A of the Family Credit Regulations**(d)** as follows.

(2) After paragraph (2) insert the following paragraph—

"(2ZA) A person is not engaged in remunerative work for the purposes of paragraph (1) where that person is treated as being in remunerative work by virtue of either—

(a) paragraph (5)(c) of regulation 4 (recognised, customary or other holiday) in circumstances where the absence from work arises from the need to care for a recently adopted child or young person or from the acquisition of a surrogate child, or

(b) paragraph (5)(e) of that regulation (woman on maternity leave),

unless immediately prior to the adoption of the child or young person or the granting of the parental order for the surrogate child or the birth of the child (as the case may be) that person was paying, or had incurred, relevant childcare charges for another child or other children of her household.".

(3) In paragraph (2A)**(e)** after sub-paragraph (c) add the following sub-paragraph—

(a) Regulation 19 was amended by regulation 6 of S.R. 1992 No. 148, regulation 3(4) of S.R. 1993 No. 120, regulation 2(2)(c) of S.R. 1994 No. 249 and regulation 26(5) and (6) of S.I. 1999/2488.

(b) Paragraph (4) was amended by regulation 7(c) of S.R. 1992 No. 148, regulation 3(4) of S.R. 1992 No. 403, regulation 3(8) of S.R. 1994 No. 77 and regulation 3(5) and (6)(b) of S.R. 1994 No. 327.

(c) Paragraph (3) was inserted by regulation 3(8)(b) of S.R. 1994 No. 327 and amended by regulation 3(3) of S.R. 1999 No. 342.

(d) Regulation 46A was inserted as regulation 13A by regulation 3(4) of S.R. 1994 No. 274, and the inserted regulation was renumbered as regulation 46A by regulation 6 of S.R. 1999/2488.

(e) Paragraph (2A) was inserted by regulation 4(3) of S.R. 1996 No. 476 and amended by regulation 8(2) of S.I. 1999/2488.

"(d) where paragraph (2ZA) applies, in the definition of "relevant childcare charges" the references to a child of the claimant's family do not include references to any child born or child or young person adopted or surrogate child acquired during the period of absence or maternity leave.".

18. After regulation 49 insert the following regulation—

"**Surrendering an award following birth or adoption etc. of child**

49ZA.—(1) An existing award of working families' tax credit shall cease to have effect if the claimant or partner elects, by notice to the Board, to surrender it following the birth of a child, the adoption of a child or the granting of a parental order for a surrogate child.

(2) The award shall terminate with effect from—

(a) the day on which the notice is given to the Board, if that day is a Monday, or

(b) the Monday following the day on which the notice is given to the Board, if that day is other than a Monday.".

Amendment to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987

19.—(1) Amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987**(a)** as follows.

(2) In regulation 6(1C)**(b)** after sub-paragraph (b) add the following words—

"unless the previous award was terminated by virtue of regulation 49ZA of the Family Credit (General) Regulations (Northern Ireland) 1987 or regulation 54A of the Disability Working Allowance (General) Regulations (Northern Ireland) 1992.".

Greg Pope
Jim Dowd
8th March 2001 — Two of the Lords Commissioners of Her Majesty's Treasury

Tim Flesher
Dave Hartnett
9th March 2001 — Two of the Commissioners of Inland Revenue

(a) S.R. 1987 No. 465.
(b) Paragraph (1C) of regulation 6 was inserted by regulation 3 of S.I. 2001/568.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Disability Working Allowance (General) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 78) ("the Disability Working Allowance Regulations") and the Family Credit (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 463) ("the Family Credit Regulations"). The amendments enable a person to claim, with effect from 4th April 2001, working families' tax credit or disabled person's tax credit in respect of a newly born or adopted child, or a surrogate child.

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

Regulation 3 inserts definitions in regulation 2 of the Disability Working Allowance Regulations.

Regulation 4 amends regulation 6 of the Disability Working Allowance Regulations so as to ensure that, subject to certain conditions, a woman who is on maternity leave is treated as engaged in remunerative work for the purposes of disabled person's tax credit.

Regulations 5 and 7 amend regulations 16 and 22 of the Disability Working Allowance Regulations so as to provide that payments made by an employer to an employee to supplement statutory maternity payments to the employee are taken into account for the purposes of computing the amount of disabled person's tax credit to be paid to the employee.

Regulations 6 and 8 amend regulations 21 and 24 of the Disability Working Allowance Regulations and provide that maternity allowance paid to an employed or self-employed earner, and statutory maternity pay paid to an employed earner, are not to be treated as earnings for the purposes of disabled person's tax credit.

Regulation 9 amends regulation 51A of the Disability Working Allowance Regulations so as to enable, subject to certain conditions, a person who is caring for a newly born child, or a recently adopted child or young person, or a surrogate child, to receive assistance in meeting childcare costs.

Regulation 10 inserts a new regulation 54A in the Disability Working Allowance Regulations so as to provide that an existing award of disabled persons's tax credit is terminated if the claimant or partner elects to surrender it following the birth of a child, the adoption of a child or young person or the granting of a parental order for a surrogate child.

Regulations 11 to 18 make similar amendments to the Family Credit Regulations for the purposes of working families' tax credit as those made by regulations 3 to 10 in relation to disabled person's tax credit.

Regulation 19 amends regulation 6 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 so as to ensure that a claim which supersedes a claim that is terminated by virtue of either of the regulations inserted by regulations 10 and 18 of these Regulations may still be made within one month of notification of intention to make a claim, notwithstanding that it is a renewal claim.

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