

2010 No. 2494

TAX CREDITS

**The Tax Credits (Miscellaneous Amendments) (No. 2)
Regulations 2010**

<i>Made</i>	- - - -	<i>13th October 2010</i>
<i>Laid before Parliament</i>		<i>14th October 2010</i>
<i>Coming into force</i>	- -	<i>14th November 2010</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 7(8) and (9), 10(2), 65(1), (7) and (9) and 67 of the Tax Credits Act 2002(a).

Citation and commencement

1. These Regulations may be cited as the Tax Credits (Miscellaneous Amendments) (No. 2) Regulations 2010 and come into force on 14th November 2010.

Amendment of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002

2. The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b) are amended as follows.

3.—(1) Regulation 5(c) (time off in connection with childbirth and adoption) is amended as follows—

(2) In paragraph 1(d) for “statutory paternity pay” substitute “ordinary statutory paternity pay”.

(3) After paragraph (1)(d) insert—

“(da) is paid additional statutory paternity pay.”

(4) For paragraph (1)(e) substitute—

“(e) is absent from work during an ordinary paternity leave period under sections 80A or 80B of the Employment Rights Act 1996(d) or Articles 112A or 112B of the Employment Rights (Northern Ireland) Order 1996(e).”

(5) After paragraph (1)(e) insert—

(a) 2002 c. 21. Section 67 is cited because of the meaning it ascribes to “prescribed”.
(b) S.I. 2002/2005; relevant amending instruments are S.I. 2003/701, 2004/762, 2007/824 and 2009/1829.
(c) Regulation 5 was substituted by regulation 5 of S.I. 2003/701.
(d) 1996 c. 18. Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22).
(e) S.I. 1996/1919 (N.I. 16). Articles 112A and 112B were inserted by Article 5 of the Employment (Northern Ireland) Order S.I. 2002/2836 (N.I. 2).

“(ea) is absent from work during an additional paternity leave period under sections 80AA or 80BB of the Employment Rights Act 1996(a) or Articles 112AA or 112BB of the Employment Rights (Northern Ireland) Order 1996(b),”.

(6) In paragraph (2) for “paragraph (3)” substitute “paragraphs (3) and (3A)”.

(7) After paragraph (3) insert—

“(3A) A person shall only be treated as being engaged in qualifying remunerative work by virtue of paragraph (1)(ea) for such period as that person would have been paid additional statutory paternity pay had the conditions of entitlement in Parts 2 or 3 of the Additional Statutory Paternity Pay (General) Regulations 2010(c) or Parts 2 or 3 of the Additional Statutory Paternity Pay (General) Regulations (Northern Ireland) 2010(d) been satisfied.”.

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

4. The Tax Credits (Definition and Calculation of Income) Regulations 2002(e) are amended as follows.

5. In regulation 4(1)(h) (employment income) for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

6. In regulation 7 (social security income) in item 21A of Table 3 for “Statutory paternity pay” substitute “Ordinary statutory paternity pay and additional statutory paternity pay”.

*Michael Fabricant
Angela Watkinson*

13th October 2010

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 14th November 2010, amend the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) (“the Income Regulations”) and the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) (“the Entitlement Regulations”) following the introduction of additional paternity leave and additional statutory paternity pay.

Regulations made under Part 8 of the Employment Rights Act 1996 (c. 18) as amended by the Work and Families Act 2006 (c.18) made provision for the introduction of additional paternity leave in Great Britain. Corresponding provision was made in Northern Ireland by regulations made under Part 9 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) as amended by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)).

Regulations made under Part 12ZA of the Social Security Contributions and Benefits Act 1992 (c. 4) as amended by the Work and Families Act 2006 made provision for the payment of additional statutory paternity pay in Great Britain. Corresponding provision was made in respect of Northern Ireland by regulations made under Part 12ZA of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) as amended by the Work and Families (Northern Ireland) Order 2006).

(a) Sections 80AA and 80BB were inserted by sections 3 and 4, respectively, of the Work and Families Act 2006 (c. 18).

(b) Articles 112AA and 112BB were inserted by Articles 5 and 6, respectively, of the Work and Families (Northern Ireland) Order S.I. 2006/1947 (N.I. 16).

(c) S.I. 2010/1056.

(d) S.R. 2010/300.

(e) S.I. 2002/2006; relevant amending instruments are S.I. 2003/732, 2003/2815, 2007/824, 2008/1879 and 2009/697.

As a consequence of the introduction of additional paternity leave and additional statutory paternity pay, from the date of commencement of the relevant part of the Work and Families Act 2006 and the Work and Families (Northern Ireland) Order 2006, “paternity leave” is to be re-named “ordinary paternity leave” and “statutory paternity pay” is to be re-named “ordinary statutory paternity pay”.

Regulations 2 and 3 amend regulation 5 of the Entitlement Regulations, which specifies the circumstances in which a person will be treated as being engaged in qualifying remunerative work during a period. Sub-paragraphs (d) and (e) of paragraph (1) are amended so that they respectively refer to ordinary statutory paternity pay and to ordinary paternity leave periods under sections 80AA or 80BB of the Employment Rights Act 1996 or Articles 112AA or 112BB of the Employment Rights Northern Ireland Order 1996. Sub-paragraph (da) is inserted so that a person is treated as being engaged in qualifying remunerative work during a period in which that person is paid additional statutory paternity pay. Sub-paragraph (ea) and paragraph 3A are inserted so that where a person is entitled to additional paternity leave but is not paid additional statutory paternity pay he will be treated as being engaged in qualifying remunerative work during the period in which he would have been paid additional statutory paternity pay had the conditions of entitlement been met.

Regulations 4 to 6 amend regulations 4 and 7 of the Income Regulations.

The definition of employment income in regulation 4 of the Income Regulations is amended to include the amount (if any) by which a payment of additional statutory paternity pay exceeds £100 per week.

In regulation 7 of the Income Regulations, Table 3 is amended to add additional statutory paternity pay to the list of payments disregarded in the calculation of social security income.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen. An Impact Assessment in respect of the introduction of additional statutory paternity pay has been prepared and is available from the Employment Relations Directorate, Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET or at www.bis.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.

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STATUTORY INSTRUMENTS

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£4.00