

- (a) a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (b) a person who is on temporary release in accordance with the provisions of the Prison Act 1952^(a) or the Prisons (Scotland) Act 1989^(b),

other than a person who is detained in hospital under the provisions of the Mental Health Act 1983^(c) or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003^(d) or the Criminal Procedure (Scotland) Act 1995^(e);

“self-employed” means engaged in carrying on a trade, profession or vocation on a commercial basis and with a view to profit, either on one’s own account or as a member of a business partnership;

“week” means a period of seven days starting with midnight between Saturday and Sunday.

Eligible persons: partners

3.—(1) Two people are regarded as partners for the purposes of the Act if they are both at least 16 years old on the date of the declaration and either—

- (a) they are married to, or civil partners of, each other and are members of the same household; or
- (b) they are not married to, or civil partners of, each other but are living together as a married couple or as civil partners.

(2) Where two people are parties to a polygamous marriage, they are not regarded as partners for the purposes of the Act if—

- (a) one of them is party to another marriage that still subsists; and
- (b) the other party to that other marriage is living in the same household.

(3) A person’s partner who is temporarily absent from the person’s household at the date of the declaration is not to be regarded as the person’s partner for the purposes of the Act if—

- (a) the absence exceeds, or is expected to exceed, 6 months; or
- (b) the absent person is a prisoner.

(4) In this regulation—

“the date of the declaration” has the meaning given in section 3(2) (eligible persons);

“polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy.

When a person is regarded as responsible for a child

4.—(1) For the purposes of the Act, a person is regarded as responsible for a child who normally lives with the person.

(2) A person is not regarded as responsible for a child during any period when the child is—

- (a) continuously absent from the person’s household for a period which exceeds, or is expected to exceed, 6 months;
- (b) a prisoner; or
- (c) looked after by a local authority or placed for adoption by that authority in the home of a person proposing to adopt the child.

(a) 1952 c. 52.
(b) 1989 c. 45.
(c) 1983 c. 20.
(d) 2003 asp 13.
(e) 1995 c. 46.

(3) A child is not looked after by a local authority within paragraph (2)(c) during any period which is in the nature of a planned short term break, or is one of a series of such breaks, for the purpose of providing respite for the person who normally cares for the child.

(4) In this regulation—

“looked after by a local authority” has the meaning in section 22 of the Children Act 1989(a), section 17(6) of the Children (Scotland) Act 1995(b) or article 25 of the Children (Northern Ireland) Order 1995(c) (with the modification that for the reference to a local authority there is substituted a reference to an authority within the meaning of article 2 of that Order);

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

- (a) the Adoption Agencies Regulations 2005(d);
- (b) the Adoption Agencies (Wales) Regulations 2005(e);
- (c) the Adoption Agencies (Scotland) Regulations 2009(f); or
- (d) the Adoption Agencies Regulations (Northern Ireland) 1989(g).

Meaning of qualifying child

5.—(1) A child is a qualifying child for the purposes of the Act until the last day of the week in which falls the 1st September following the child’s eleventh birthday (or sixteenth birthday in the case of a disabled child).

(2) For the purposes of paragraph (1), “disabled child” means—

- (a) a child in respect of whom any of the following is being paid—
 - (i) a disability living allowance;
 - (ii) personal independence payment;
 - (iii) armed forces independence payment;
 - (iv) an allowance or payment made under the law of another EEA state which is substantially similar in character to an allowance or payment within paragraphs (i), (ii) or (iii); or
- (b) a child who is certified as severely sight impaired or blind by a consultant ophthalmologist.

Temporary absence from the United Kingdom

6.—(1) A person’s temporary absence from the United Kingdom is disregarded in determining whether the person meets the condition in section 8(1) (the person must be in the UK) if—

- (a) the person is an eligible person immediately before the beginning of the period of temporary absence; and
- (b) either—
 - (i) the absence is not expected to exceed, and does not exceed, 8 weeks; or
 - (ii) paragraph (2) or (3) applies.

(2) This paragraph applies where the absence does not exceed 6 months and is solely in connection with one or more of the following circumstances—

- (a) the person is undergoing treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner;

(a) 1989 c. 41.

(b) 1995 c. 36.

(c) S.I. 1995/7559 (N.I. 2).

(d) S.I. 2005/389, to which there are amendments not relevant to these Regulations.

(e) S.I. 2005/1313 (W. 95), to which there are amendments not relevant to these Regulations.

(f) S.S.I 2009/154, to which there are amendments not relevant to these Regulations.

(g) S.I. 1989/253, to which there are amendments not relevant to these Regulations.

- (b) the person is accompanying the person's partner or a child for whom the person is responsible for treatment as mentioned in sub-paragraph (a);
- (c) the death of—
 - (i) the person's partner or a child for whom the person was responsible; or
 - (ii) a close relative of the person, or of the person's partner or of a child for whom the person or the person's partner was responsible.

(3) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and the person is—

- (a) a mariner; or
- (b) a continental shelf worker who is in a designated area or a prescribed area.

(4) In this regulation—

“close relative” means—

- (a) a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother or sister; and
- (b) if any of the above is a member of a couple, the other member of the couple;

“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998(a);

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(b) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;

“prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;

“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

Individuals treated as being, or not being, in the United Kingdom

7.—(1) The following persons are treated for the purposes of the Act as being in the United Kingdom—

- (a) a person who is ordinarily resident in the United Kingdom;
- (b) a person who is not ordinarily resident in the United Kingdom, but to whom regulation 8 applies;
- (c) a Crown servant or member of Her Majesty's forces posted overseas;
- (d) the partner of the person mentioned in sub-paragraph (c) when the partner is accompanying the person on that posting;

(a) 1998 c. 17.

(b) 1964 c. 29.

(e) a resident of another EEA state who is in paid work in the United Kingdom.

(2) A person mentioned in paragraph (1)(c) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before their posting or the first of consecutive postings, ordinarily resident in the United Kingdom.

(3) The following persons are treated for the purposes of the Act as not being in the United Kingdom—

(a) a person who—

(i) is resident in the United Kingdom but is taxed, by virtue of double taxation arrangements, as if they were not so resident; and

(ii) is not a resident of another EEA state who is in paid work in the United Kingdom;

(b) a person subject to immigration control.

(4) In this regulation—

“Crown servant” means a person—

(i) holding an office or employment under the Crown;

(ii) whose duties of employment are of a public nature; and

(iii) whose salary is paid out of public funds of the United Kingdom;

“double taxation arrangements” means arrangements that have effect under section 2(1) of the Taxation (International and Other Provisions) Act 2010 (giving effect to arrangements made in relation to other territories)(a);

“Her Majesty's forces” has the meaning in the Armed Forces Act 2006(b);

“paid work” has the meaning given in regulation 9(2);

“person subject to immigration control” has the meaning in section 115(9) of the Immigration and Asylum Act 1999(c).

Individuals not ordinarily resident, but treated as being, in the United Kingdom

8. This regulation applies to a person who meets one or more of the following descriptions—

(a) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

(b) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971(d) where that leave is—

(i) discretionary leave to enter or remain in the United Kingdom;

(ii) leave to remain under the Destitution Domestic Violence concession(e); or

(iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005(f).

(c) a person who has humanitarian protection granted under those rules; or

(d) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

(a) 2010 c. 8, to which there are amendments not relevant to these Regulations.

(b) 2006 c. 52.

(c) 1999 c. 33. There are amendments to section 115 but none are relevant to these Regulations.

(d) 1971 c. 77.

(e) The Destitution Domestic Violence concession is published by the Home Office at: <http://www.ukba.homeoffice.gov.uk/>.

(f) S.I. 2005/1379 as amended by S.I. 2013/630 and other amending instruments which are not relevant for this regulation.

The requirement to be in qualifying paid work

9.—(1) For the purposes of the condition in section 9(1) (the person and his or her partner must be in qualifying paid work), a person is in qualifying paid work if—

- (a) the person is in paid work as an employed or self-employed person; and
- (b) the person's expected income from the work in the period specified in paragraph (4) is greater than or equal to the relevant threshold.

(2) (a) In this regulation, "paid work" means work done for payment or in expectation of payment and does not include being engaged by a charitable or voluntary organisation, or as a volunteer, in circumstances in which the payment received by or due to be paid to the person is in respect of expenses; and

- (b) a person is to be regarded as in paid work as an employed person if—
 - (i) the person has accepted an offer of work on or before the day on which the declaration of eligibility is made; and
 - (ii) the work is expected to start within 7 days of that day.

(3) A person's "expected income" is the income which the person has a reasonable expectation of receiving, calculated in accordance with regulation 10;

(4) The period specified in this paragraph is—

- (a) in the case of a declaration of eligibility made for the purposes of opening a childcare account, the period of 3 months beginning with the day on which the declaration is made;
- (b) in the case of any other declaration of eligibility, the entitlement period for which the declaration is made.

(5) In this regulation, "the relevant threshold" is the product of the calculation—

$$M \times W$$

where—

M is the amount a person would be paid at the hourly rate set out in regulation 11 of the National Minimum Wage Regulations 1999(a) for 8 hours a week; and

W is the number of whole weeks in the period specified in paragraph (4).

(6) If a person is both employed and self-employed paragraph (1)(b) applies to the person's expected income from both types of work taken together.

Calculation of expected income

10.—(1) An employed person's expected income comprises the amount of earnings the person expects to receive from—

- (a) any employment under a contract of service;
- (b) any office, including an elected office.

(2) In paragraph (1), "earnings" has the meaning given by section 62 of the Income Tax (Earnings and Pensions) Act 2003(b).

(3) A self-employed person's expected income comprises—

- (a) the amount of receipts the person expects to derive from a trade, profession or vocation less the amount of expenses the person expects to incur wholly and exclusively for the purposes of the trade, profession or vocation; or
- (b) if the trade, profession or vocation is carried on in a business partnership, the person's share of the receipts expected to be derived less expenses expected to be so incurred by the partnership.

(a) S.I. 1999/584, as amended by S.I. 2013/1975.

(b) 2003 c. 1.

(4) In calculating a self-employed person's income no deduction is allowed for items of a capital nature.

Self-employed persons: start-up periods

11.—(1) A self-employed person does not have to meet the condition in regulation 9(1)(b)—

- (a) in the first entitlement period which falls wholly or partly within a start-up period; and
- (b) in the subsequent 3 entitlement periods.

(2) A “start-up period” is a period of 12 months following the commencement by the self-employed person of any trade, profession or vocation.

(3) A self-employed person cannot rely on a second or subsequent start-up period (in relation to the commencement by that person of a new trade, profession or vocation) unless 4 years have passed since the end of the previous start-up period.

(4) In paragraph (3) “the previous start-up period” is the period by virtue of which the person did not have to meet the condition in regulation 9(1)(b).

Qualifying paid work: time off in connection with sickness or parenting

12.—(1) This regulation applies for any period during which a person—

- (a) is paid statutory sick pay;
- (b) is paid maternity allowance;
- (c) is paid statutory maternity pay;
- (d) is absent from work during an ordinary maternity leave period under section 71 of the Employment Rights Act 1996(a) or article 103 of the Employment Rights (Northern Ireland) Order 1996(b);
- (e) is absent from work during an additional maternity leave period under section 73 of the Employment Rights Act 1996(c) or article 105 of the Employment Rights (Northern Ireland) Order 1996(d);
- (f) is paid ordinary or additional statutory paternity pay;
- (g) is absent from work during an ordinary paternity leave period under section 80A or 80B of the Employment Rights Act 1996(e) or article 112A or 112B of the Employment Rights (Northern Ireland) Order 1996(f);
- (h) is absent from work during an additional paternity leave period under section 80AA or 80BB of the Employment Rights Act 1996(g) or article 112AA or 112BB of the Employment Rights (Northern Ireland) Order 1996(h);
- (i) is paid statutory adoption pay;

(a) 1996 c. 18. Section 71 was substituted by Part I of Schedule 4 to the Employment Relations Act 1999 (c. 26).

(b) S.I. 1996/1919 (N.I. 16). Article 103 was substituted by article 9 of, and Part I of Schedule 4 to, the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9)) and amended by S.I. 2002/2836 (N.I. 2), articles 1(3) and 13(1) of, and Schedule 1 to, the Work and Families (Northern Ireland) Order 2006 S.I. 2006/1947 (N.I. 16) and article 2(b) and (c) of S.R. 2006/344

(c) Section 73 was substituted and amended by paragraph 32 of Schedule 1 to the Work and Families Act 2006 (c. 18).

(d) Article 105 was amended by article 9 of, and Part I of Schedule 4 to, S.I. 1999/2790 (N.I. 9), article 3 of S.I. 2002/2836 (N.I. 2) and article 13 and paragraph 31 of Schedule 1 to S.I. 2006/1947 (N.I. 16).

(e) Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22).

(f) Articles 112A and 112B were inserted by article 4 of the Employment (Northern Ireland) Order 2002 S.I. 2002/2836 (N.I. 2).

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

(h) Articles 112AA and 112BB were inserted by articles 5 and 6, respectively, of the Work and Families (Northern Ireland) Order 2006.

- (j) is absent from work during an ordinary adoption leave period under section 75A of the Employment Rights Act 1996(a) or article 107A of the Employment Rights (Northern Ireland) Order 1996(b);
- (k) is absent from work during an additional adoption leave period under section 75B of the Employment Rights Act 1996(c) or article 107B of the Employment Rights (Northern Ireland) Order 1996(d); or
- (l) is absent from work during a statutory parental leave period under section 76 of the Employment Rights Act 1996(e) or Article 108 of the Employment Rights (Northern Ireland) Order 1996(f).

(2) For the purposes of the Act, the person is regarded as in qualifying paid work during the period in paragraph (1). This is subject to paragraphs (3), (4) and (5).

(3) Paragraph (2) does not apply unless, immediately before the start of the period in paragraph (1), either—

- (a) the person was in qualifying paid work; or
- (b) the person was regarded as in qualifying paid work under this regulation by virtue of a different sub-paragraph of paragraph (1).

(4) Paragraph (2) does not apply for the purposes of a person's eligibility in relation to a child whose birth or adoption caused the period in paragraph (1)(b) to (k) to run.

(5) A person shall only be treated as being in qualifying paid work by virtue of paragraph (1)(h) 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(g) or Parts 2 or 3 of the Additional Statutory Paternity Pay (General) Regulations (Northern Ireland) 2010(h) been satisfied.

(6) A self-employed person is regarded as in qualifying paid work during any period for which paragraph (1) would have applied in that person's case but for the fact that the work performed in the week immediately before the period began, although done for payment or in expectation of payment, was not performed under a contract of service.

(7) This regulation applies to a person within regulation 7(1)(e) or that person's partner who, under the law of another EEA state—

- (a) receives payments which are substantially similar in character to the payments in paragraph (1)(a) to (c), (f) or (i); or
- (b) is absent from work in circumstances which are substantially similar in character to a period of absence described in paragraph (1)(d), (e), (g), (h) or (j) to (l).

Qualifying paid work: caring, incapacity for work or limited capability for work

13.—(1) This regulation applies for any period in respect of which—

- (a) a person ("P") has a partner who is in qualifying paid work; and
- (b) P is entitled to any of the following—

(a) Section 75A was inserted by section 3 of the Employment Act 2002.
(b) Article 107A was inserted by article 3 of the Employment Rights (Northern Ireland) Order 2002.
(c) Section 75B was inserted by section 3 of the Employment Act 2002 and amended by section 11 of, and paragraph 34 of Schedule 1 to, the Work and Families Act 2006.
(d) Article 107B was inserted by article 3 of S.I. 2002/2836 (N.I. 12) and amended by article 13 of, and paragraph 33 of Schedule 1 to, S.I. 2006/1947 (N.I. 16).
(e) Section 76 was substituted by section 7 of, and Part I of Schedule 4 to, the Employment Relations Act 1999.
(f) Article 108 was substituted by article 9 of, and Part 1 of Schedule 4 to, the Employment Relations (Northern Ireland) Order 1999.
(g) S.I. 2010/1056.
(h) S.R. 2010/300.

- (i) incapacity benefit under section 30A, 40 or 41 of the Social Security Contributions and Benefits Act 1992(a);
- (ii) severe disablement allowance under section 68 of that Act (as it has effect by virtue of article 4 of the Welfare Reform and Pensions Act 1999 (Commencement No. 9, and Transitional and Savings Provisions) Order 2000(b);
- (iii) long-term incapacity benefit under regulation 11(4) or 17(1) of the Social Security (Incapacity Benefit)(Transitional) Regulations 1995(c);
- (iv) carer’s allowance under section 70 of the Social Security Contributions and Benefits Act 1992(d) or invalid care allowance under section 70 of the Social Security Contributions and Benefits Act (Northern Ireland) 1992(e);
- (v) contributory employment and support allowance under Part 1 of the Welfare Reform Act 2007(f) as amended by Schedule 3 and Part 1 of Schedule 14 to the Welfare Reform Act 2012(g) or under section 1 of the Welfare Reform Act (Northern Ireland) 2007(h); or
- (vi) national insurance credits on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975(i) or regulation 8B of the Social Security (Credits) Regulations (Northern Ireland) 1975(j).

(2) For the purposes of the Act, P is regarded as in qualifying paid work during that period.

(3) Paragraph (6) of regulation 12 applies for the purposes of this regulation as it applies for the purposes of that regulation.

(4) This regulation applies to a person within regulation 7(1)(e) or that person’s partner who, under the law of another EEA state, is entitled to a benefit, allowance or credit which is substantially similar in character to a benefit, allowance or credit described in paragraph (1)(b).

Qualifying childcare: work requirement

14.—(1) For the purposes of section 2 (qualifying childcare) “work” means “paid work” within the meaning given in regulation 9(2).

(2) The condition in section 2(2)(b) does not need to be met in relation to a person, or to a person’s partner, to whom any of the cases in regulation 12(1)(a) to (l) applies.

Income not to exceed a certain level

15.—(1) A person is treated as meeting the condition of eligibility in section 10 (the income of the person and his or her partner must not exceed limit) if the person does not expect to pay income tax at the additional rate or the dividend additional rate for the relevant tax year.

(2) A person within regulation 7(1)(e) is treated as meeting the condition in section 10 if the person would not expect to pay income tax at the additional rate or the dividend additional rate on their hypothetical net income for the relevant tax year.

(3) A person is treated as not meeting the condition of eligibility in section 10 if—

-
- (a) 1992 c. 4. Section 30A was added by section 1 of the Social Security (Incapacity for Work) Act 1994 (c. 18) and amended by section 64 of the Welfare Reform and Pensions Act 1999 (c. 30). Sections 40 and 41 were substituted by paragraph 8 and 9 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).
 - (b) S.I. 2000/2958 (C.89).
 - (c) S.I. 1995/310. Regulation 11(4) was amended by S.I. 1996/3207.
 - (d) Section 70 was amended, and the name of the allowance changed from invalid care allowance to carer’s allowance, by S.I. 2002/1457.
 - (e) 1992 c. 7.
 - (f) 2007 c. 5.
 - (g) 2012 c. 5. Schedule 3 and Part 1 of Schedule 14 remove references to an income-related allowance.
 - (h) 2007 c. 2.
 - (i) S.I. 1975/556. Regulation 8B has been amended by S.I. 1996/2367, 2000/3120, 2003/521, 2008/1554, 2010/385, 2012/913 and 2013/630.
 - (j) S.R. 1975 No. 113.

- (a) the person has made, or expects to make, a claim under section 809B of the Income Tax Act 2007^(a) (claim for remittance basis to apply) for the relevant tax year; or
 - (b) the person expects section 809E of that Act (application of remittance basis in certain cases without claim) to apply to the person for the relevant tax year.
- (4) In this regulation, “hypothetical net income” has the meaning given in section 55C(3) of the Income Tax Act 2007^(b)

Neither the person nor his or her partner may be claiming universal credit

16. A person who is a resident of another EEA state is to be treated as not meeting the condition of eligibility in section 11 if, at the date of the declaration, the person either—

- (a) is, under the law of that state, being paid in respect of a relevant assessment period a credit which is substantially similar in character to universal credit; or
- (b) has made a claim that would result in such a credit becoming payable to the person in respect of a relevant assessment period.

Application of sections 12 and 13 to EEA residents

17.—(1) Sections 12 and 13 apply to a person within regulation 7(1)(e) or the person’s partner with the modifications in paragraphs (2) and (3).

(2) The modifications in this paragraph are, in section 12(2) and (3)—

- (a) “relevant childcare scheme” means a scheme which, under the law of the other EEA state, provides support of a substantially similar character to a scheme under section 270A or 318 of the Income Tax (Earnings and Pensions) Act 2003^(c); and
- (b) “eligible employee” means a person who is eligible for such a scheme.

(3) The modification in this paragraph is, in section 13(2), “other relevant childcare support” means any payments towards the cost of childcare which are made out of funds provided by the other EEA state, other than payments under the Act.

Power to disqualify tax credit and universal credit claimants: change of circumstances

18.—(1) The following are to be regarded as changes of circumstances in relation to a person for the purposes of sections 31 and 32 (power to disqualify tax credit or universal credit claimants from obtaining top-up payments)—

- (a) a person no longer meets the conditions of eligibility in sections 7 to 9 and 11, or a person’s partner no longer meets the conditions in sections 9 and 11;
- (b) a change in the composition of the person’s household, including—
 - (i) a person’s partner joins the person’s household or the person joins their partner’s household;
 - (ii) a person takes responsibility for another child or qualifying young person in circumstances which entitle the person to an award of tax credit being made, or to universal credit becoming payable, in relation to that responsibility;
 - (iii) a person’s partner or a child leaves the household; or
 - (iv) a person’s partner or child dies;
- (c) the person or the person’s partner is absent from the household for at least one month;
- (d) a person’s child is awarded, or ceases to be entitled to, disability living allowance, personal independence payment or armed forces independence payment;

(a) 2007 c. 3. Sections 809B and 809E were inserted by paragraph 1 of Schedule 7 to the Finance Act 2008 (c. 9) and have been amended by Schedule 27 to the Finance Act 2009 (c. 10) and Schedules 45 and 46 to the Finance Act 2013 (c. 29).

(b) Section 55C was inserted by section 11 of the Finance Act 2014 (c. **).

(c) 2003 c. 1. Section 270A was inserted by paragraph 3 of Schedule 13 to the Finance Act 2004 (c. 12).

- (e) a change in a person's principal employment or in the employment status of a person or a person's partner; or
- (f) any other change that entitles a person or a person's partner to make a claim that results in either—
 - (i) a first award of a tax credit; or
 - (ii) a first award of universal credit.

(2) (a) In paragraph (1)(b)(ii), a person takes responsibility for a child or qualifying young person where the person takes such responsibility within the meanings given in—

- (i) regulation 3 of the Child Tax Credit Regulations 2002(a), in a case within section 31; or
 - (ii) regulation 4 and 4A of the Universal Credit Regulations 2013(b), in a case within section 32.
- (b) in paragraph (1)(b)(iii) and (iv), "child" means a qualifying child for the purposes of the Act.

(3) In paragraph (1)(e), a person's "principal employment" is the employment from which the greater part of the person's income, or the income of the household, is derived.

Name
Name

Date Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain the detailed requirements a person must satisfy in order to be able to receive top-up payments under the Childcare Payments Act 2014 (c. **) ("the Act") in respect of childcare costs.

Regulations 1 and 2 provide for citation, commencement and interpretation.

Regulation 3 describes the circumstances where a person is regarded as another person's partner for the purposes of the Act.

Regulation 4 describes the circumstances where a person is responsible for a child for the purposes of the Act. This is usually the person (or one of the persons) with whom the child lives. It also describes where a person is not to be so regarded, such as where the child is absent from the person's household for at least 6 months or is detained in custody, in local authority care or placed for adoption.

Regulation 5 gives the meaning of qualifying child, broadly a child under 12 years old or, if disabled, 17 years old. It also describes what is meant by "disabled child".

Regulations 6 to 8 provide for the condition that a person must be in the United Kingdom. Regulation 6 specifies the circumstances in which temporary absence from the UK is disregarded in determining whether the condition is met. Regulation 7 specifies persons regarded as meeting the condition, including forces members posted overseas, and those who don't meet the condition, including persons not ordinarily resident in the UK and those subject to immigration control or taxed in another jurisdiction. Regulation 8 specifies persons who do not have to meet the condition, including refugees and those granted discretionary leave to enter or remain in the UK or given humanitarian protection.

(a) S.I. 2002/2007.

(b) S.I. 2013/376. Regulation 4 was relevantly amended, and regulation 4A was added, by regulation 3 of S.I. 2013/1508.

Regulations 9 to 13 deal with the condition that a person (and partner) must be in qualifying paid work. Regulation 9 defines qualifying paid work in terms of a minimum income, calculated in accordance with regulation 10. Regulation 11 contains an exception to the condition in relation to start-up periods for self-employed persons. Regulation 12 treats certain persons as satisfying the condition during periods when they receive statutory sick pay, maternity or paternity pay or when a person is on statutory leave for reasons connected with birth or adoption of a child. Regulation 13 contains similar provision for periods when a person's partner is working but the person is incapable of working and in receipt of statutory benefits such as incapacity benefit, disablement allowance or carer's allowance.

Regulation 14 provides for the work requirement in the meaning of qualifying childcare within the Act, applying relevant elements of the qualifying paid work as provided in regulations 9 to 12.

Regulation 15 specifies the maximum level of income for eligibility under the Act, including special provision for persons who are not domiciled in the UK and subject to the remittance basis for income tax.

Regulation 16 provides for the condition in section 11 (neither the person nor the person's partner may be claiming universal credit) to apply in relation to any credit paid in another EEA state which is similar to universal credit.

Regulation 17 provides for the condition in sections 12 and 13 (person must not be in a relevant childcare scheme not receiving other childcare support) to apply to the partner of an EEA resident who is working in the United Kingdom.

Regulation 18 supplements the power of HMRC to disqualify a person from obtaining top-up payments and either tax credits or universal credit. It set out changes of a person's circumstances for which a claim to both top-up payments and one of the credits may be justified, so that the requirements for disqualification are not met.

A full Impact Assessment of the effect that the childcare payments scheme will have on the costs of business and the voluntary sector is available from the gov.uk website at <https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment>. It remains an accurate summary of the impacts that apply to this instrument.