

2005 No. 2919

CHILD TRUST FUNDS

CIVIL PARTNERSHIP

SOCIAL SECURITY

TAX CREDITS

**The Civil Partnership Act 2004 (Tax Credits, etc.)
(Consequential Amendments) Order 2005**

<i>Made</i> - - - -	<i>19th October 2005</i>
<i>Laid before Parliament</i>	<i>20th October 2005</i>
<i>Coming into force</i> - -	<i>5th December 2005</i>

The Treasury, in exercise of the powers conferred upon them by sections 254(3) and 259(1), (4) and (11)(a) of the Civil Partnership Act 2004(b), make the following Order:

PART 1

INTRODUCTION

Citation and commencement

1. This Order may be cited as the Civil Partnership Act 2004 (Tax Credits, etc.) (Consequential Amendments) Order 2005 and shall come into force on 5th December 2005.

PART 2

AMENDMENTS RELATING TO TAX CREDITS

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

2.—(1) The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(c) shall be amended as follows.

(a) Subsection 11 is cited because of the definition of “Minister of the Crown”. The Treasury is included in the definition of “Minister of the Crown” in section 8 of the Ministers of the Crown Act 1975 (c. 26).
(b) 2004 c. 33.
(c) S.I. 2002/2005 amended by S.I. 2003/701.

- (2) In regulation 2(1) (interpretation)—
- (a) for the definition of “couple” substitute—
 - “ “couple” has the meaning given by section 3(5A) of the Act(a)”; and
 - (b) in the definition of “partner”(b) omit the words “married or unmarried”.
 - (3) In regulation 13(1) (entitlement to child care element) omit the words “married or unmarried” wherever they appear.
 - (4) In regulation 14(1B)(a)(c) (definitions) in the definition of “relative” after “marriage” insert “, civil partnership”.

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

3.—(1) The Tax Credits (Definition and Calculation of Income) Regulations 2002(d) shall be amended as follows.

- (2) In regulation 2 (interpretation)—
- (a) after the definition of “claim” insert—
 - “ “couple” has the meaning given by section 3(5A) of the Act;”;
 - (b) in paragraph (2)(c) in the definition of “family” omit the words “married or unmarried”; and
 - (c) in paragraph (4)(a) and (b) after each reference to “spouse” insert “or civil partner”.

Amendment of the Child Tax Credit Regulations 2002

4.—(1) The Child Tax Credit Regulations 2002(e) shall be amended as follows.

- (2) In regulation 2(1) (interpretation) after the definition of “the Contributions and Benefits Act” insert—
- “ “couple” has the meaning given by section 3(5A) of the Act;”.
- (3) In regulation 3(1), Rule 2 (competing claims), in paragraph 2.1(a)(ii) and (b) omit the words “married couple or unmarried” in each place they occur.
- (4) In regulation 7(1)(b) (determination of the maximum rate) omit the words “married couple or unmarried”.

Amendment of the Tax Credits (Claims and Notifications) Regulations 2002

5.—(1) The Tax Credits (Claims and Notifications) Regulations 2002(f) shall be amended as follows.

- (2) In regulation 2 (interpretation)—
- (a) after the definition of “the Board” insert—
 - “ “couple” has the meaning given by section 3(5A) of the Act;”;
 - (b) omit the definitions of “married couple” and “unmarried couple”.
- (3) In regulation 13, (circumstances in which claims to be treated as made) omit the words “married couple or an unmarried” and “married couple or unmarried” in each place they occur.
- (4) In regulation 16 (persons who die before making joint claims)—

(a) The Tax Credits Act 2002 (c. 21). Sub-sections (5) and (6) as originally enacted were substituted by paragraph (5A) by paragraph 144(3) of Part 14 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

(b) The definition of “partner” was inserted by regulation 3(5) of S.I. 2003/701.

(c) Paragraph (1B) was inserted by regulation 13 of S.I. 2003/701.

(d) S.I. 2002/2006, to which there are no relevant amendments.

(e) S.I. 2002/2007, to which there are no relevant amendments.

(f) S.I. 2002/2014, to which there are no relevant amendments.

- (a) in paragraph (1) omit the words “married couple or an unmarried” and “married couple or the unmarried”; and
 - (b) in paragraph (3)(a) omit the words “married couple or unmarried”.
- (5) In regulation 23(2) (person by whom notification may be, or is to be, given) omit the words “married couple or unmarried”.

Amendment of the Tax Credits (Payments by the Commissioners) Regulations 2002

6.—(1) The Tax Credits (Payments by the Commissioners) Regulations 2002(a) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “the Commissioners” insert—

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

(b) omit the definitions of “married couple” and “unmarried couple”.

(3) In the provisions listed below for each reference (however expressed) to a married couple or an unmarried couple substitute “couple”.

The provisions are—

- (a) in regulation 3, paragraphs (2), (3) and (6);
- (b) in regulation 4, paragraphs (2), (3), (4) and (5); and
- (c) in regulation 5, paragraphs (1), (2) and (3).

Amendment of the Tax Credits (Immigration) Regulations 2003

7.—(1) The Tax Credits (Immigration) Regulations 2003(b) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “the Child Tax Credit Regulations” insert—

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

(b) omit the definitions of “married couple” and “unmarried couple”.

(3) In regulation 3(2) (persons subject to immigration control) omit the words “married couple or unmarried”.

Amendment of the Tax Credits (Residence) Regulations 2003

8.—(1) The Tax Credits (Residence) Regulations 2003(c) shall be amended as follows.

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

(a) after the definition of “child” insert—

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

(b) in the definition of “partner” omit the words “married or unmarried”.

Amendment of the Tax Credits (Provision of Information) (Functions Relating to Health) Regulations 2003

9.—(1) The Tax Credits (Provision of Information) (Functions Relating to Health) Regulations 2003(d) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) S.I. 2002/2173, the relevant amending instruments are S.I. 2005/2200 and S.I. 2004/1241.
(b) S.I. 2003/653.
(c) S.I. 2003/654.
(d) S.I. 2003/731.

- (a) after the definition of “child tax credit” insert—
 - “ “couple” has the meaning given by section 3(5A) of the Tax Credits Act 2002;”;
- (b) in paragraph (a) of the definition of “family” omit “married or unmarried”.

PART 3

AMENDMENTS RELATING TO CHILD BENEFIT AND GUARDIAN’S ALLOWANCE

Amendment of the Child Benefit (General) Regulations 2003

- 10.**—(1) The Child Benefit (General) Regulations 2003(a) shall be amended as follows.
- (2) In regulation 1(2) (interpretation)—
- (a) after the definition of “the Children Order” insert—
 - “ “civil partnership” means two people of the same sex who are civil partners of each other and are neither—
 - (a) separated under a court order, nor
 - (b) separated in circumstances in which the separation is likely to be permanent;
 - “cohabiting same-sex couple” means two people of the same sex who are not civil partners of each other but are living together as if they were civil partners;”;
 - (b) for the definition of “partner” substitute—
 - “ “partner” means, except in regulation 12, where a person is a member of—
 - (a) a married couple,
 - (b) an unmarried couple,
 - (c) a cohabiting same-sex couple, or
 - (d) a civil partnership,

the other member of that couple or partnership as the case may be.”.
- (3) In regulation 4(4) (prescribed circumstances relating to contributions and expenditure in respect of a child) after “spouses” insert “or civil partners”.
- (4) In regulation 12(1) (child living with another person as his spouse)—
- (a) after “spouse” insert “or civil partner”; and
 - (b) in the heading to regulation 12 add “or civil partner”.
- (5) For regulation 13 (married child) substitute—

“Child in a relevant relationship

- 13.**—(1) A person is not disentitled to child benefit in respect of a child in a relevant relationship by virtue of paragraph 3 of Schedule 9 to the Contributions and Benefits Act or paragraph 3 of Schedule 9 to the Contributions and Benefits (NI) Act (unless regulations otherwise provide no person to be entitled to child benefit in respect of a child in a relevant relationship) if—
- (a) that person is not the spouse or civil partner of that child; and
 - (b) that child is not residing with his spouse or civil partner, or if he is, the spouse or civil partner is receiving full-time education.
- (2) In this regulation, “relevant relationship” means a marriage or civil partnership.”.

(a) S.I. 2003/493, to which there are no relevant amendments.

- (6) In regulation 34 (persons treated as residing together)—
- (a) in paragraph (a) omit “but not husband and wife”; and
 - (b) in paragraph (b) after “spouses” insert “or two persons who are parents of a child”.

Amendment of the Guardian’s Allowance (General) Regulations 2003

11.—(1) The Guardian’s Allowance (General) Regulations 2003(a) shall be amended as follows.

(2) For regulation 6(1)(a) (marriage of a child’s parents has been terminated by divorce) substitute—

“(a) the marriage or the civil partnership of a child’s parents has been terminated by divorce or dissolved;”.

Amendment of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003

12.—(1) The Child Benefit and Guardian’s Allowance (Administration) Regulations 2003(b) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “the Board” insert—

“ “civil partnership” means two people of the same sex who are civil partners of each other and are neither—

(a) separated under a court order, nor

(b) separated in circumstances in which the separation is likely to be permanent;

“cohabiting same-sex couple” means two people of the same sex who are not civil partners of each other but are living together as if they were civil partners;”;

(b) in the definition of “partner” substitute—

“ “partner” means a member of a married couple, an unmarried couple, or a cohabiting same-sex couple or a civil partnership”.

Amendment of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976

13.—(1) The Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976(c) shall be amended as follows.

(2) In regulation 2(2ZA)(d) (weekly rates of child benefit)—

(a) in paragraph (a) after “spouse” insert “or civil partner” in each place it occurs; and

(b) in paragraph (c) after “spouse” insert “, civil partner”.

Amendment of the Child Benefit and Social Security (Fixing and Adjustment of Rates) (Northern Ireland) Regulations 1976

14.—(1) The Child Benefit and Social Security (Fixing and Adjustment of Rates) (Northern Ireland) Regulations 1976(e) shall be amended as follows.

(2) In regulation 2(2ZA)(f) (weekly rates of child benefit)—

(a) S.I. 2003/495.
(b) S.I. 2003/492.
(c) S.I. 1976/1267.
(d) Paragraph (2ZA) was inserted by regulation 2(b) of S.I. 1991/502.
(e) S.R. 1976 No. 223.
(f) Paragraph (2ZA) was inserted by regulation 2(b) of S.R. 1991 No. 82.

- (a) in paragraph (a) after “spouse” insert “or civil partner” in each place it occurs; and
- (b) in paragraph (c) after “spouse” insert “, civil partner”.

PART 4

AMENDMENT RELATING TO CHILD TRUST FUNDS

Amendment of the Child Trust Funds Regulations 2004

15.—(1) The Child Trust Funds Regulations 2004(a) shall be amended as follows.

(2) In regulation 11 (general investment rules), in paragraph (4)(b)(ii), after “spouse” insert “or civil partner”.

PART 5

AMENDMENTS RELATING TO SOCIAL SECURITY

Amendment of the Social Security Benefit (Computation of Earnings) Regulations 1996

16.—(1) The Social Security Benefit (Computation of Earnings) Regulations 1996(b) shall be amended as follows.

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

(a) in the definition of “close relative”, for “or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;” substitute “or if any of the preceding persons is one member of a couple, the other member of that couple;”;

(b) for the definition of “couple” substitute—

“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners;

and for the purposes of sub-paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;”;

(c) in the definition of “partner”, in sub-paragraph (a), omit “married or an unmarried”.

Amendment of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996

17.—(1) The Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996(c) shall be amended as follows.

(a) S.I. 2004/1450, to which there are no relevant amendments.
(b) S.I. 1996/2745, to which there are no relevant amendments.
(c) S.R. 1996 No. 520 to which there are no relevant amendments.

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

(a) in the definition of “close relative”, for “or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;” substitute “or if any of the preceding persons is one member of a couple, the other member of that couple;” and;

(b) for the definition of “couple” substitute—

“ “couple” means—

(a) a man and woman who are married to each other and are members of the same household;

(b) a man and woman who are not married to each other but are living together as husband and wife;

(c) two people of the same sex who are civil partners of each other and are members of the same household; or

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners;

and for the purposes of sub-paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;”.

*Dave Watts
Gillian Merron*

19th October 2005

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

The Civil Partnership Act 2004 (c. 33) introduced the concept of “civil partnership” for couples of the same sex. As a result of that Act this Order makes consequential amendments to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005), the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006), the Child Tax Credit Regulations 2002 (S.I. 2002/2007), the Tax Credits (Claims and Notifications) Regulations 2002 (S.I. 2002/2014), the Tax Credits (Payments by the Commissioners) Regulations 2002 (S.I. 2002/2173), the Tax Credits (Immigration) Regulations 2003 (S.I. 2003/653), the Tax Credits (Residence) Regulations 2003 (S.I. 2003/654), the Tax Credits (Provision of Information) (Functions Relating to Health) Regulations 2003 (S.I. 2003/731), the Child Benefit (General) Regulations 2003 (S.I. 2003/493), the Guardian’s Allowance (General) Regulations 2003 (S.I. 2003/495), the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003 (S.I. 2003/492), the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976 (S.I. 1976/1267), the Child Benefit and Social Security (Fixing and Adjustment of Rates) (Northern Ireland) Regulations 1976 (S.R. 1976 No. 223), the Child Trust Funds Regulations 2004 (S.I.2004/1450), the Social Security Benefit (Computation of Earnings) Regulations 1996 (S.I. 1996/2745) and the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 520).

The amendments relate to terminology and in particular introduce new definitions of “partner” and “couple”.

Part 1 provides for citation and commencement.

Part 2 contains the amendments to tax credits.

Part 3 contains the amendments to child benefit and guardian’s allowance.

Part 4 contains an amendment to child trust funds.

Part 5 contains amendments to provisions of social security law relating to the computation of earnings for those in receipt of certain social security benefits.

This Order has no impact on the costs of business, charities or voluntary bodies. There are set-up costs for the tax credits, child benefit and guardian’s allowance schemes in the region of £100,000. These costs were outlined in the full Regulatory Impact Assessment for the Civil Partnership Act 2004 (c. 33) which can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>.

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