

2018 No. 788

SOCIAL SECURITY

TAX CREDITS

CHILDCARE

PAYMENT SCHEME

The Child Benefit, Tax Credits and Childcare Payments (Section 67 Immigration Act 2016 Leave) (Amendment) Regulations 2018

<i>Made</i>	- - - -	<i>28th June 2018</i>
<i>Laid before Parliament</i>		<i>29th June 2018</i>
<i>Coming into force</i>	- -	<i>20th July 2018</i>

The Treasury in exercise of the powers conferred by sections 146(3) and 175(1), (1A)(a), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 142(3) and 171(3), (4) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), now exercisable by them(c), sections 3(7), 42 and 65(1), (3), (7) and (9) of the Tax Credits Act 2002(d) and sections 8(2) and 69(2) and (4) of the Childcare Payments Act 2014(e) make the following Regulations (apart from regulation 3) and the Commissioners for Her Majesty's Revenue and Customs in exercise of the powers conferred by sections 5(1)(a) and (b) and 189(4) and (5) of the Social Security Administration Act 1992(f), sections 5(1)(a) and (b) and 165(1), (4), (5) and (11A) of the Social Security Administration (Northern Ireland) Act 1992(g), make regulations 1 and 3.

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- (a) 1992 c. 4. Section 146(3) was substituted by section 56(1) of the Tax Credits Act 2002 (c. 21) ("The 2002 Act"). Section 175(1A) was inserted and section 175(4) was amended by section 2, Schedule 3, paragraph 29 of the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2). Section 175(1A) was amended by section 60, Schedule 6 of The 2002 Act. Section 122 defines "prescribe" as meaning "prescribe by regulations".
- (b) 1992 c. 7. Section 142(3) was substituted by section 56(1) of The 2002 Act. Section 171(10) was substituted by article 4, schedule 3, paragraph 28(3) of The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, S.I. 1999/671, ("The Northern Ireland Order 1999"). Section 121 defines "prescribe" as meaning "prescribe by regulations".
- (c) The functions of the Secretary of State in respect of Part 9 of the Social Security Contributions and Benefits Act 1992 were transferred to Her Majesty's Treasury by section 49(1)(b) of The 2002 Act. The functions of the Northern Ireland Department in respect of Part 9 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 were transferred to Her Majesty's Treasury by section 49(2)(b) of The 2002 Act.
- (d) 2002 c. 21. Section 67 defines "prescribed" as meaning "prescribed by regulations".
- (e) 2014 c. 28.
- (f) 1992 c. 5. Section 191 defines "prescribe" as meaning "prescribe by regulations".
- (g) 1992 c. 8. Section 165(1) was amended by article 4, Schedule 3, paragraph 49(2) and section 165(11A) was inserted by article 4, Schedule 3 paragraph 49(4) of The Northern Ireland Order 1999.

Citation and commencement

1. These Regulations may be cited as the Child Benefit, Tax Credits and Childcare Payments (Section 67 Immigration Act 2016 Leave) (Amendment) Regulations 2018 and come into force on 20th July 2018.

Amendment of the Child Benefit (General) Regulations 2006

2.—(1) The Child Benefit (General) Regulations 2006(a) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation) after “remunerative work” insert—

““section 67 leave” means leave to remain in the United Kingdom granted by the Secretary of State to a person who has been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016(b).”.

(3) In regulation 23 (circumstances in which person treated as not being in Great Britain) after paragraph (6)(m) insert—

“(n) has been granted section 67 leave.”.

(4) In regulation 27 (circumstances in which person treated as not being in Northern Ireland) after paragraph (5)(m) insert—

“(n) has been granted section 67 leave.”.

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

3.—(1) The Child Benefit and Guardian’s Allowance (Administration) Regulations 2003(c) are amended as follows.

(2) In regulation 6 (time within which claims are to be made)—

(a) after paragraph (2)(d) insert—

“(e) a person who has been granted section 67 leave makes a claim for that benefit or allowance within three months of receiving notification from the Secretary of State of the grant of that leave.”,

(b) in paragraph (3) after “(2)(d)” insert “or (2)(e)”, and

(c) after paragraph (3) insert—

“(4) In this regulation “section 67 leave” means leave to remain in the United Kingdom granted by the Secretary of State to a person who has been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016.”.

Amendment of the Tax Credits (Residence) Regulations 2003

4.—(1) The Tax Credits (Residence) Regulations 2003(d) are amended as follows.

(2) In regulation 3 (circumstances in which a person treated as not being in the United Kingdom)—

(a) after paragraph (7)(m) insert—

“(n) has been granted section 67 leave.”, and

(a) S.I. 2006/223. Regulation 23 was amended by regulation 3 and regulation 27 was amended by regulation 4 of S.I. 2014/1511.

(b) 2016 c. 19.

(c) S.I. 2003/492. Regulation 6 was amended by regulation 3 of S.I. 2003/1945, regulation 3 of S.I. 2003/2107 and regulation 4 of S.I. 2004/761.

(d) S.I. 2003/654. Regulation 3 was amended by regulation 3 of S.I. 2004/1243 and by regulation 6 of S.I. 2014/1511.

(b) after paragraph (9) insert—

“(10) In this regulation “section 67 leave” means leave to remain in the United Kingdom granted by the Secretary of State to a person who has been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016.”.

Amendment of the Tax Credits (Immigration) Regulations 2003

5.—(1) The Tax Credits (Immigration) Regulations 2003(a) are amended as follows.

(2) In regulation 3 (exclusion of persons subject to immigration control from entitlement to tax credits)—

(a) in paragraph (5)(a) after “refugee”, insert “or has been granted section 67 leave” and

(b) after paragraph (9) insert—

“(10) In this regulation “section 67 leave” means leave to remain in the United Kingdom granted by the Secretary of State to a person who has been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016.”.

Amendment of the Childcare Payments (Eligibility) Regulations 2015

6.—(1) The Childcare Payments (Eligibility) Regulations 2015(b) are amended as follows.

(2) In regulation 8 (persons treated as being, or not being, in the United Kingdom)—

(a) insert “(1)” after “8” and before “The”,

(b) at the end of sub-paragraph (c) omit “or”, and

(c) at the end of sub-paragraph (d) but before the full stop insert—

“; or

(e) a person who has been granted section 67 leave.

(2) In this regulation “section 67 leave” means leave to remain in the United Kingdom granted by the Secretary of State to a person who has been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016.”.

Jim Harra

Justin Holliday

Two of the Commissioners for Her Majesty’s Revenue and Customs

Craig Whittaker

Rebecca Harris

28th June 2018

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 67 of the Immigration Act 2016 (c. 19) creates a new category of leave (“section 67 leave”) under which individuals may be relocated to the United Kingdom and permitted to remain in the United Kingdom. The Immigration Rules made under section 3(2) of the Immigration Act 1971 (c. 77) have been changed to provide for this section 67 leave. The new rules were presented to the House of Commons on 15th June 2018. These Regulations will give individuals who have

(a) S.I. 2003/653, Regulation 3(5)(b) was amended by regulation 7 of S.I. 2012/848.

(b) S.I. 2015/448, to which there are amendments not relevant to this regulation.

been granted section 67 leave under that section access to Child Benefit, tax credits and the childcare payment scheme as is the case with individuals with Refugee status, providing that they meet the eligibility criteria in relation to these schemes or benefits.

Regulation 2 amends regulations 23 and 27 of the Child Benefit (General) Regulations 2006 (S.I. 2006/223), to exempt individuals who have been granted section 67 leave from having to meet the three month residence requirement in those Regulations.

Regulation 3 amends regulation 6 of the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 (S.I. 2003/492), to provide that where an individual claiming asylum is notified that he has been granted section 67 leave his claim for a benefit administered by HMRC is treated as having been made on the date that the claim for asylum was made. His claim for the benefit must be made within three months of being granted section 67 leave.

Regulation 4 amends regulation 3 of the Tax Credits (Residence) Regulations 2003 (S.I. 2003/654) to exempt individuals who have been granted section 67 leave from having to meet the three month residence requirement in those Regulations.

Regulation 5 amends regulation 3 of the Tax Credits (Immigration) Regulations 2003 (S.I. 2003/653) to give individuals who have been granted section 67 leave, access to benefits administered by HMRC.

Regulation 6 amends regulation 8 of the Childcare Payments (Eligibility) Regulations 2015 (S.I. 2015/448) to provide that individuals who have been granted section 67 leave are treated in the same way as refugees for the purposes of the childcare payments scheme.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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