

EXPLANATORY MEMORANDUM TO
THE CHILDCARE PAYMENTS (ELIGIBILITY) (AMENDMENT) REGULATIONS
2017

2017 No. 1101

1. Introduction

- 1.1 This explanatory memorandum has been prepared on behalf of the Treasury (HMT) by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of the instrument is to make consequential amendments to The Childcare Payments (Eligibility) Regulations 2015.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The Childcare Payments Act 2014 ('The Act') enacted a new scheme to provide financial support to help working families with the costs of childcare.
- 4.2 The Act provides for the overall structure of the scheme and the way in which it will operate. It also contains a number of delegated powers exercised by regulations. Those powers were exercised in making The Childcare Payments (Eligibility) Regulations 2015 (the "2015 Regulations"). This instrument amends the 2015 Regulations, which were previously amended by The Childcare Payments (Eligibility) (Amendment) Regulations 2016 and The Childcare Payments (Eligibility) (Amendment No 2) Regulations 2016. .

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 Tax-Free Childcare provides financial support to help working families with the costs of childcare. In particular the scheme aims to support parents to take up paid work, or increase their existing working hours, should they wish to do so.
- 7.2 The scheme was launched in April 2017 and will gradually roll out to all eligible parents.
- 7.3 This instrument contains minor changes to the 2015 Regulations. They also effect a policy change to extend the period that parents can apply for childcare payments before starting or returning to work from 14 to 31 days. The same applies for those making a declaration in advance of returning from parental leave. This will help parents to arrange and settle their child into childcare before starting or returning to work.
- 7.4 This instrument contains changes to put beyond doubt how the rules on being in qualifying paid work operate for people with both self-employment and employment income. In particular, that parents may ignore their self-employment and rely solely on their employment income if any self-employment is making a loss.

Consolidation

- 7.5 There are no plans for consolidation.

8. Consultation outcome

- 8.1 HMRC has not formally consulted before introducing the amendment regulations. However, the Social Security Advisory Committee (SSAC) has considered these regulatory changes under its Memorandum of Understanding with HMT and HMRC.

9. Guidance

- 9.1 HMRC is working with the Government Digital Service to update the guidance on the TFC scheme.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 A full Impact Assessment of the effect that the childcare payments scheme will have on the costs of business and the voluntary sector was published on 18th November 2014 alongside The Childcare Payments Act 2014 and is available from the gov.uk website at <https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment>. An updated Impact Assessment was made on 30th March 2017 and is available at <http://www.legislation.gov.uk/ukpga/2014/28/resources>

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The policy will be reviewed two years after full implementation of the scheme to assess whether Tax-Free Childcare is delivered effectively and supports working families as intended.

13. Contact

- 13.1 Phil Mattacks at the HM Revenue and Customs. Telephone: 03000 585 501 or email: phil.mattacks@hmrc.gsi.gov.uk can answer any queries regarding the instrument.