

## EXPLANATORY MEMORANDUM TO

### THE TAX CREDITS AND GUARDIAN'S ALLOWANCE UP-RATING REGULATIONS 2019

2019 No. [XXXX]

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") on behalf of Her Majesty's Treasury ("HMT") and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 These regulations set the annual rates of the disability elements of Child Tax Credit ("CTC") and Working Tax Credit ("WTC") from 6 April 2019, and the weekly rate of Guardian's Allowance ("GA") from 8 April 2019, as published alongside Budget 2018.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument relies on section 105 of the Deregulation Act 2015 to make a single instrument rather than separate instruments each making a relatively small number of changes. Regulation 5 is made under order-making powers in section 132(1) of the Social Security Administration (Northern Ireland) Act 1992 ("Northern Ireland Administration Act"). Section 105 of the Deregulation Act 2015 has not been cited in the preamble to the instrument on the basis that it is materially parallel to provisions in the Interpretation Act 1978.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 The entire instrument applies to England, Wales and Northern Ireland only and is a financial instrument for the purposes of Standing Order No. 83T of the Standing Orders of the House of Commons relating to Public Business.
- 3.3 In the view of the Department, for the purposes of House of Commons Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, the subject-matter of this instrument would not be within the devolved legislative competence of any of the Northern Ireland Assembly as a transferred matter, the Scottish Parliament or the National Assembly for Wales if equivalent provision in relation to the relevant territory were included in an Act of the relevant devolved legislature.

#### 4. Extent and Territorial Application

- 4.1 The extent of this instrument is the United Kingdom.

- 4.2 The territorial application of this instrument is set out in Section 3 under “Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)”.

## **5. European Convention on Human Rights**

- 5.1 The Chief Secretary to the Treasury, The Rt Hon Elizabeth Truss MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Tax Credits and Guardian’s Allowance Up-rating Regulations 2019 are compatible with the Convention rights.”

## **6. Legislative Context**

- 6.1 Section 41 of the Tax Credits Act 2002 (“TCA”) requires HMT to review certain elements of tax credits in each tax year in order to determine whether those elements have retained their value in relation to the general level of prices in the United Kingdom as estimated by HMT in such manner as it considers appropriate. The elements that must be reviewed are set out in section 41(2) TCA but some of those elements are not required to be reviewed in the tax years ending 5 April 2017 – 5 April 2020 by virtue of section 12 of the Welfare Reform and Work Act 2016 (“WRAW”). A copy of the review will be published on the GOV.UK website.
- 6.2 Section 150(1)(a)(i) of the Social Security Administration Act 1992 (“SSAA”), and section 49(3) of the TCA, requires HMT in each tax year to review the amount of GA to determine whether it has retained its value in relation to the general level of prices in Great Britain. Section 150(2)(a) of the SSAA provides that GA (amongst other benefits) shall be up-rated in line with the increase in the general level of prices. Section 132(1) of the Northern Ireland SSAA, and section 49(4) of the TCA, allows HMT to make corresponding provision for Northern Ireland.
- 6.3 Section 150(1)(i) of the SSAA, and section 49(3) of the TCA, require the rates of Child Benefit to be reviewed each tax year, however this is not being done for this tax year as section 11 of the WRAW provides that the rates of Child Benefit need not be reviewed in the tax years ending 5 April 2017 – 5 April 2020.

## **7. Policy background**

### *What is being done and why*

- 7.1 Following the reviews of tax credits and GA referred to in paragraphs 6.1-6.2 above, HMT has determined that the overall level of prices has increased by 2.4 per cent as measured by the change in the Consumer Price Index (CPI) from September 2017 to September 2018.
- 7.2 These regulations increase the rates of disability elements for families with disabled children in receipt of CTC and disabled workers in receipt of WTC by 2.4 per cent rounded up to the nearest £5.00.
- 7.3 This means that the CTC disabled child or qualifying young person elements will be increased from £3,275 to £3,355 and the severely disabled child or qualifying young person elements will be increased from £4,600 to £4,715. The WTC disabled element will be increased from £3,090 to £3,165 and the severely disabled element will be increased from £1,330 to £1,365.

- 7.4 The regulations also increase the rate of GA, payable to carers of children whose parents have died or are otherwise absent, by 2.4 per cent rounded to the nearest 5 pence. Therefore, the weekly rate of GA will be increased from £17.20 to £17.60.
- 7.5 HMRC figures show that in April 2018 there were an estimated 113,000 disabled workers who are WTC recipients, 47,000 WTC recipients whose award includes a severely disabled element, 414,000 disabled children included in a CTC award and 162,000 severely disabled children included in a CTC award.<sup>1</sup>

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 These regulations are remade in their entirety each tax year therefore consolidation is not appropriate.

## **10. Consultation outcome**

- 10.1 No consultation was carried out as the regulations form part of the annual requirement to increase tax credits and GA benefits.

## **11. Guidance**

- 11.1 These amendments will be reflected in the Tax Credits and Child Benefit Technical Manuals and in guidance for claimants. The GOV.UK website will also be updated to reflect the new rates once the instrument comes into force.

## **12. Impact**

- 12.1 There is no impact on business, charities or voluntary bodies as the regulations only affects individuals claiming CTC, WTC and GA.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private or voluntary sectors is foreseen.

## **13. Regulating small business**

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

## **14. Monitoring & review**

- 14.1 The tax credits and GA rates are subject to review each tax year by HM Treasury Ministers in accordance with section 41 of the TCA, section 150 SSAA and section 132 of the Northern Ireland SSAA.

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## **15. Contact**

- 15.1 Michelle Mathieson at HMRC, on Telephone: 03000 513002 or email [michelle.mathieson@hmrc.gsi.gov.uk](mailto:michelle.mathieson@hmrc.gsi.gov.uk), can be contacted with any queries regarding the instrument.
- 15.2 James Dunstan, Deputy Director for Tax Credits and Child Benefit at HMRC, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Elizabeth Truss MP, Chief Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.