

**EXPLANATORY MEMORANDUM TO**  
**THE TAX CREDITS, CHILD BENEFIT AND GUARDIAN'S ALLOWANCE UP-**  
**RATING REGULATIONS 2021**

**2021 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 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 Child Tax Credit (CTC) and Working Tax Credit (WTC) from 6 April 2021, and the weekly rate of Child Benefit and Guardian's Allowance from 12 April 2021, as announced in a Written Ministerial statement on 25 November 2020 [[HCWS599](#)]. Tax credits elements and thresholds to be uprated are set out in paragraphs 7.3, 7.5 and 7.6 below.

**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. 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 territorial application of this instrument varies between provisions.
- 3.3 The territorial application of this instrument is the United Kingdom except for regulation 6 which applies to England, Wales and Scotland and regulation 7 which applies to Northern Ireland. The extent provisions of the enabling Acts under which the instrument is made are section 69 of the Tax Credits Act 2002, section 192 of the Social Security Administration Act 1992 and section 168 of the Social Security Administration (Northern Ireland) Act 1992.

**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 the United Kingdom except for regulation 6 which applies to England, Wales and Scotland and regulation 7 which applies to Northern Ireland.

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

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

“In my view the provisions of the Tax Credits, Child Benefit and Guardian’s Allowance Up-rating Regulations 2021 are compatible with the Convention rights.”

## **6. Legislative Context**

- 6.1 Section 41 of the Tax Credits Act 2002 (TCA) requires the Treasury 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. The Treasury has measured price inflation based on the increase in the Consumer Price Index (CPI) between September 2019 and September 2020. The elements that must be reviewed are set out in section 41(2) TCA.
- 6.2 Section 150(1)(a)(i) of the Social Security Administration Act 1992 (SSAA), and section 49(3) TCA, require the Treasury in each tax year to review the amount of Guardian’s Allowance to determine whether it has retained its value in relation to the general level of prices in Great Britain. Section 150(2)(a) SSAA provides that Guardian’s Allowance (amongst other benefits) shall be up-rated in line with the increase in the general level of prices. Section 132(1) of the Social Security Administration (Northern Ireland) Act 1992, and section 49(4) TCA, allows the Treasury to make corresponding provision for Northern Ireland.
- 6.3 Section 150(1)(i) SSAA, and section 49(3) TCA, require the rates of Child Benefit to be reviewed each tax year.
- 6.4 Section 77(1) of the Coronavirus Act 2020 (CVA) increased the basic rate of WTC from £1,995 to £3,040 for the 2020-21 tax year only. Section 77(2) CVA provides that the £20 per week increase to the basic rate of WTC does not apply for the purposes of the annual review under section 41 TCA and that the annual rate of £1,995, previously announced in a Written Ministerial Statement of 4 November 2019 [[HCWS75](#)] and set out at paragraph 1 of Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005), should be used for the Treasury’s review.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Following the reviews of tax credits, Child Benefit and Guardian’s Allowance referred to in paragraphs 6.1, 6.2 and 6.3 above, the Treasury has determined that the overall level of prices has increased by 0.5 per cent as measured by the change in CPI from September 2019 to September 2020.
- 7.2 These regulations increase certain rates of CTC and WTC elements payable to eligible families and working age adults by 0.5 per cent, rounded up to the nearest £5.00.
- 7.3 This means that the following WTC elements will be increased as follows: the basic element will be increased from £1,995 to £2,005; the second adult and the lone parent element will be increased from £2,045 to £2,060; the 30 hour element will be increased from £825 to £830; the disabled element will be increased from £3,220 to £3,240; and the severely disabled element will be increased from £1,390 to £1,400.

- 7.4 The 0.5% increase will be applied to the rate of the Working Tax Credit basic element announced by Written Ministerial Statement on 4 November 2019 (£1,995). The statutory annual review of benefits is separate from the temporary £20 per week uplift to the Working Tax Credit basic element and the Universal Credit standard allowance, which was announced as a temporary measure in March 2020, and enacted for one year under different legislation (section 77(1) CVA) in response to the public health emergency.
- 7.5 The following CTC elements will be increased as follows: the child/qualifying young person (QYP) element will be increased from £2,830 to £2,845; child disability element will be increased from £3,415 to £3,435, and the severely disabled rate of the child disability element will be increased from £4,800 to £4,825.
- 7.6 The WTC income threshold will be increased from £6,530 to £6,565 and the CTC income threshold will be increased from £16,385 to £16,480.
- 7.7 These regulations increase the rate of Child Benefit payable to those who are responsible for a child or QYP by 0.5 per cent, rounded to the nearest 5 pence.
- 7.8 This means that the weekly rate of Child Benefit for the eldest child will be increased from £21.05 to £21.15 and the rate for any subsequent children will be increased from £13.95 to £14.
- 7.9 The regulations also increase the rate of Guardian's Allowance, payable to carers of children whose parents have died or are otherwise absent, by 0.5 per cent rounded to the nearest 5 pence. Therefore, the weekly rate of Guardian's Allowance will be increased from £17.90 to £18.
- 7.10 HMRC figures show that in April 2020 there were an estimated 2.3 million claims to tax credits, 1.1 million recipients of CTC only, 204,000 recipients of WTC only and 996,000 recipients who received both CTC and WTC.
- 7.11 HMRC figures show that in April 2020 there were an estimated 7.3 million claims to Child Benefit supporting 12.7 million children and approximately 3,000 claims to Guardian's Allowance.
- 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 There are no plans to consolidate the legislation.
- 10. Consultation outcome**
- 10.1 No consultation was carried out as the regulations form part of the annual requirement to review tax credits, Child Benefit and Guardian's Allowance.
- 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. The relevant information can be found at the following webpages: <https://www.gov.uk/hmrc-internal->

[manuals/tax-credits-manual](#) and <https://www.gov.uk/hmrc-internal-manuals/child-benefit-technical-manual>.

## **12. Impact**

- 12.1 There is no impact on business, charities or voluntary bodies as the regulations only affect individuals claiming tax credits, Child Benefit and Guardian's Allowance.
- 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, Child Benefit and Guardian's Allowance rates are subject to review each tax year by Treasury Ministers in accordance with section 41 TCA, section 150 SSAA and section 132 of the Social Security Administration (Northern Ireland) Act 1992.

## **15. Contact**

- 15.1 Laura Richardson at HMRC, on Telephone 03000 581023 or email [Laura.richardson2@hmrc.gov.uk](mailto:Laura.richardson2@hmrc.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 The Rt Hon Steve Barclay MP, Chief Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.