

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (CHILDCARE IN WALES) (AMENDMENT)
REGULATIONS 2021

2021 No. 228

1. Introduction

1.1 This explanatory memorandum has been prepared by The Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The regulations make one amendment to The Universal Credit Regulations 2013¹ ('the 2013 Regulations'). This amendment:

- Allows the department to continue to reimburse Universal Credit childcare costs to Universal Credit claimants who employ nannies in Wales. The proposed new Approval of Home Childcare Providers scheme is expected to come into force in 2021 and will replace the previous approval scheme then implemented by the then National Assembly for Wales under section 12(5) of the Tax Credits Act 2002². The Tax Credits Act 2002 has since been repealed as part of the introduction of Universal Credit, subject to savings provisions.
- The drafting also ensures that childcare providers approved under a future Welsh scheme made under the same legal powers as the new scheme mentioned above will qualify as "relevant childcare" in UC without further legislative change.
- The Welsh Ministers are expected to put transitional arrangements in place to approve nannies moving from the old scheme to the new scheme.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

¹ <http://www.legislation.gov.uk/uksi/2013/376/contents>

² <https://www.legislation.gov.uk/ukpga/2002/21/contents>

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 *The Welfare Reform Act 2012*³ provides for the introduction in Great Britain of Universal Credit, a working age income-related social security benefit, and the abolition of income support, housing benefit, working tax credit, child tax credit and the income-related components of jobseeker's allowance and employment and support allowance.
- 6.2 The 2013 Regulations provide for matters relating to Universal Credit, including: entitlement; components and calculation of an award; application of the Benefit Cap; requirements for participation in the labour market; sanctions and hardship payments.

7. Policy background

What is being done and why?

Childcare Costs

- 7.1 This instrument will amend the 2013 Regulations to ensure that care by childcare providers registered/approved under a scheme that is made under section 60 of the Government of Wales Act 2006⁴ is considered relevant childcare, and that the childcare costs element for Universal Credit claimants who use a nanny in Wales to provide their childcare will continue to be eligible for childcare costs reimbursement.
- 7.2 The 2013 Regulations provide the conditions for the award of the childcare costs element of Universal Credit.
- 7.3 To be eligible for reimbursement within Universal Credit, childcare must be "relevant childcare", meaning that the childcare provider must be registered or approved by an appropriate body, or the care falls under specific legislative provisions. The definition is tailored to accommodate the different arrangements for childcare in England and the other devolved administrations. If a provider does not provide "relevant childcare" it means that the costs are not eligible for reimbursement through Universal Credit. This means that the childcare costs element will not be paid.
- 7.4 The current powers under the Tax Credits Act 2002⁵ to approve nannies in Wales have been removed, subject to saving provisions. The Welsh Ministers are exercising an alternative legal power to create a new scheme, under section 60 of the Government of Wales Act 2006, and the definition of "relevant childcare" needs to be updated for Universal Credit purposes to reflect these changes. Otherwise, care provided by nannies registered under the new Welsh scheme would not qualify for the childcare costs element of Universal Credit. This amendment is intended to help households with children, giving people more confidence that they will receive the support they need, to enter into and remain in, paid work.

³ <http://www.legislation.gov.uk/ukpga/2012/5/contents>

⁴ <https://www.legislation.gov.uk/ukpga/2006/32/contents>

⁵ <https://www.legislation.gov.uk/ukpga/2002/21/contents>

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 / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 Informal consolidated text of instruments is available to the public free of charge via ‘The National Archives’ website: www.legislation.gov.uk.

10. Consultation outcome

10.1 The draft regulations were considered by the Social Security Advisory Committee (SSAC) during January 2021. The Committee did not take the regulations on formal reference.

11. Guidance

11.1 Guidance is being updated to support staff and will be published on the Department’s website.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

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 significant impact is foreseen on the private, public or voluntary sectors.⁶

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 approach to monitoring of this legislation There are no plans to review the impacts of these amendments, which are:

- beneficial for claimants claiming childcare costs.

15. Contact

15.1 Francesca Galli at the Department for Work and Pensions Telephone: 0113 2324 263 or email: francesca.galli@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Zoe Garrett, in place of the Deputy Director, Universal Credit Policy Division, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Will Quince Parliamentary Under-Secretary of State for Welfare Delivery can confirm that this Explanatory Memorandum meets the required standard.

⁶ An Equality Analysis *for this regulation change* was undertaken and found this change does not disproportionately affect claimants with protected characteristics