

**EXPLANATORY MEMORANDUM TO
THE TAX CREDITS (CLAIMS AND NOTIFICATIONS) (AMENDMENT)
REGULATIONS 2015**

2015 No. 669

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of this instrument

The purpose of this instrument is to make a consequential amendment to the Tax Credits (Claims and Notifications) Regulations 2002 (S.I. 2002/2014) ("the Claims Regulations") as a consequence of the enactment of the Childcare Payments Act 2014 ("the CPA") which introduces a new scheme, commonly referred to as 'Tax-Free Childcare'.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative content

4.1 The CPA makes provision for the introduction of a new scheme (Tax-Free Childcare) designed to provide financial support to help working families with the cost of childcare. This scheme will be based on a system of childcare accounts. Eligible parents will open an online account into which they will pay money and the Government will automatically top-up amounts in the account at a rate of 20p for every 80p paid in by the parent up to a maximum amount every three months (entitlement period). The amounts held in the childcare accounts will have to be used to pay for qualifying childcare as defined in the CPA and regulations made under the powers conferred by that Act.

4.2 The Claims Regulations, amongst other things, prescribe the manner in which a claim for tax credit is to be made. Regulation 7 of the Claims Regulations provides a standard rule whereby a tax credits claim may be treated as made up to 31 days prior to the date it is received by a relevant authority at an appropriate office if the person or, in the case of a joint claim, the persons making the claim would have been entitled at that earlier date.

4.3 These Regulations amend the Claims Regulations in order to modify the effect of the "treat as made" provisions in regulation 7 in circumstances where the claimant or, in the case of a joint claim, either or both of the claimants, has made a declaration of eligibility under section 4(2) of the CPA. Regulation 2 of these Regulations inserts a new paragraph 7A into the Claims Regulations to that aim.

4.4 Paragraph (1) of new regulation 7A provides that, subject to the specific provisions in new paragraphs (3) and (4), where the claim for tax credits is made during an entitlement period under the CPA, the backdating provisions in regulation 7 shall not apply so that the tax credit claim will be made on the date it is received at the appropriate tax credits office.

4.5 Paragraph (2) of new regulation 7A provides that, subject to the specific provisions in paragraphs (3) and (4), where the claim for tax credits is made within 31 days beginning with the last day of the entitlement period, the backdating provisions can only apply to the extent that they do not allow a backdating period to overlap with any day falling within that entitlement period. The effect of this is that earliest day from which tax credits may be awarded is the day after the last day of the entitlement period for Tax-Free Childcare purposes.

4.6 Paragraphs (3) and (4) apply to modify the backdating provisions in regulation 7 in certain specified circumstances. Where, during an entitlement period for Tax-Free Childcare, or during the period of 31 days beginning with the day following the last day of that entitlement period, HMRC makes an account restriction order in the event of a Tax-Free Childcare rival claim so that only one childcare account remains active, or a Tax-Free Childcare account is closed or a child reaches the maximum age and ceases to be a qualifying child under the CPA, the backdating rules in regulation 7 do not allow the tax credits claim to be backdated any earlier than the date that the restriction order is made, the childcare account is closed or the child ceases to be a qualifying child (as appropriate).

4.7 Regulations 3 to 5 make consequential amendments as a result of introducing a new regulation 7A into the Claims Regulations.

5. Territorial extent and application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 At Budget 2013, the Government announced the introduction of a new scheme, referred to as Tax-Free Childcare, designed to provide financial support to help working families with the cost of childcare. In particular the new 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 will be based on a system of childcare accounts. Eligible parents will open an online account into which they will pay money and the Government

will automatically top up amounts in the account at a rate of 20p for every 80p paid in by the parent. The amounts held in the childcare accounts will have to be used to pay for qualifying childcare.

7.3 Government support will be up to £2000 per child per year. Parents will be able to have one account per qualifying child. A child will qualify for the scheme until the first week in September following their eleventh birthday or, for disabled children, until the first week in September following their sixteenth birthday.

7.4 Legislation to enact the new scheme, the Childcare Payments Act, received Royal Assent on 17 December 2014.

7.5 This instrument modifies the backdating provisions in regulation 7 of the Claims Regulations to minimise the possibility of dual entitlement to Tax-Free Childcare and tax credits arising from the application of those backdating provisions.

Consolidation

None.

8. Consultation outcome

No formal consultation has taken place.

9. Guidance

Guidance on Her Majesty's Revenue and Customs website will be updated to reflect the changes herein.

10. Impact

- 10.1 This instrument has no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An impact assessment has not been prepared for this instrument.

11. Regulating and business

The legislation does not apply to small businesses.

12. Monitoring and review

These changes are considered consequential or technical and do not require further review.

13. Contact

Graeme Osborne at HM Revenue and Customs: Tel 03000 586712 or email; Graeme.osborne@hmrc.gsi.gov.uk can answer any queries regarding the instrument on behalf of the Treasury.

