

**EXPLANATORY MEMORANDUM TO  
THE TAX CREDITS ACT 2002 (TRANSITIONAL PROVISIONS) (No.2)  
ORDER 2005**

**2005 No. 776**

1. This explanatory memorandum has been prepared by the Treasury.  
  
This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Description**
  - 2.1 This Order deals with the migration of families with children from child premiums paid with Income Support and income-based Jobseekers' Allowance to Child Tax Credit.
  - 2.2 The Order provides that a claimant receiving child premiums who has made a deemed claim for that child/children to receive Child Tax Credit.
  - 2.3 It also specifies that the date the Child Tax Credit award comes into payment, which will be notified by the Board to the Department of Work and Pensions, will be the date child premiums cease to be paid.
  - 2.4 The award of Child Tax Credit will run from the deemed date of claim until the end of the tax year in question.
  - 2.5 This Order provides that a claimant receiving child premiums, either as part of his or her Income Support or Jobseekers Allowance award paid by Department for Work and Pensions, will not receive a double provision when provision is transferred on to Child Tax Credit.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 This instrument is required to be laid before Parliament after being made but there is no provision for further parliamentary proceedings.
4. **Legislative Background**
  - 4.1 This order is made under the powers contained within section 62(2) of the Tax Credits Act 2002.
  - 4.2 This provision makes transitional provisions in connection with the abolition of child premiums in respect of Income Support and income-based Jobseekers' Allowance referred to in section 1(3) of the Tax Credits Act 2002..
  - 4.3 Section 1(3) of the Tax Credits Act 2002 provided for child premium payments to cease on 5 April 2005. The Tax Credits Act 2002 (Commencement No.4, Transitional Provisions and Savings) (Amendment) Order 2005 provides for an amendment of that date to 31 December 2006.
  - 4.4 Regulation 7 of the Tax Credits (Claims and Notifications) Regulations 2002 allows for the backdating of claims to Child Tax Credit for a

period either to the date of birth of a child or three months, whichever is the less.

## **5. Extent**

5.1 This instrument applies to all of the United Kingdom.

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

This order is a transitory modification and does not amend primary legislation. Accordingly a certificate that the order is compatible with Convention rights is not required.

## **7. Policy background**

7.1 When Child Tax Credit was introduced in April 2003 some individuals and couples who were entitled to receive Child Tax Credit, but were at that time in receipt of child premiums in respect of their Income Support or income-based Jobseekers' Allowance claims.

7.2 The child premiums payable by the Department of Work and Pensions were increased to reflect the amount that would be received if the claimant had claimed Child Tax Credit.

7.3 Once the new Tax Credits system was established and Child Tax Credit in payment to those families not in receipt of Income Support or income-based Jobseekers' Allowance it was the intention to migrate those in receipt of the child premium element of these benefits to Child Tax Credit by 5 April 2005.

7.4 On 21 October 2004 the Paymaster General made a written Ministerial Statement on Child Tax Credit. This confirmed that the timing of the phased transfer on to Child Tax Credit of the remaining families with children in receipt of Income Support/Jobseekers Allowance would be deferred, to safeguard the continuity of support for children in this vulnerable group, and would begin in 2005.

7.5 In accordance with this decision this Orders and the Tax Credits Act 2002 (Commencement No.4, Transitional Provisions and Savings) (Amendment) Order 2005 have been prepared to enable the Department of Work and Pensions to continue making child premium payments until families have their claims migrated to Child Tax Credit.

7.6 Regulation 7 of the Tax Credits (Claims and Notifications) Regulations 2002 allows for the backdating of claims to Child Tax Credit for a period either to the date of birth of a child or three months, whichever is the less. If Regulation 7 were allowed to operate in the case of those previously in receipt of child premiums payable with there Income Support or income-based Jobseekers' Allowance there would be a period of double provision as child premiums are paid on a weekly basis.

7.7 This Order will ensure that where provision from a child is switched from child premiums to child tax credit there will be no backdating of

claim to Child Tax Credit for a period either to the date of birth of a child or three months, whichever is the less, as provided by Regulation 7 of the Tax Credits (Claims and Notifications) Regulations 2002. Instead, the payment of Child Tax Credit in families, covered by this Order, will start from the date entitlement to Child Tax Credit which will co-incide with the date that DWP cease to pay child premiums. This will ensure that these claimants get the same level of support in the transitional year as those who have claimed Child Tax Credit for the entire year.

- 7.8 It is intended to complete the migration exercise on or before 31 December 2006, the date referred to in the Tax Credits (Commencement No.4, Transitional Provisions and Savings) (Amendment) Order 2005.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies
- 8.2 There is no new or foreseeable impact on the public sector.

## **9. Contact**

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