

EXPLANATORY MEMORANDUM TO

THE NATIONAL INSURANCE CONTRIBUTION CREDITS (TRANSFER OF FUNCTIONS) (NORTHERN IRELAND) ORDER 2010

2010 No. 242

1. This explanatory memorandum has been prepared by the Department for Social Development and the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

This instrument provides for the function of the Department for Social Development in making certain decisions as to whether a person is entitled to be credited with National Insurance contributions to be transferred to the Commissioners of Her Majesty's Revenue and Customs ("HMRC"). It also provides that a right of appeal against a decision on the award of a credit will be to an appeals tribunal.

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

None

4. **Legislative Context**

4.1 The Pensions Act (Northern Ireland) 2008 introduced a scheme to credit parents and carers with National Insurance contributions for each week they are engaged in caring. The credit counts towards entitlement to State Pension, Bereavement Allowance and Widowed Parent's Allowance and will replace Home Responsibilities Protection for contributors who reach pensionable age on or after 6 April 2010 or who die on or after 6 April 2010 without reaching pensionable age before that date.

4.2 The legislation provides for credits to be given to people awarded Child Benefit for a child under 12 years, approved foster parents and people who are 'engaged in caring'. The Department for Social Development will make separate regulations to define who is 'engaged in caring' for the purposes of that section.

4.3 HMRC currently administers Home Responsibilities Protection and certain National Insurance credits on behalf of the Department of Social Development in respect of Child Benefit recipients or their partners and approved foster carers. They make these decisions by virtue of arrangements under Article 16 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999. However, there is no provision in that Order in respect of decisions relating to the new credits.

4.4 The policy intention is that decisions on the award of the credit for these groups will similarly be made by HMRC officials.

5. Territorial Extent and Application

5.1 The Order applies to Northern Ireland.

5.2 The Order corresponds to an Order (SI 2009/1377) made in respect of England and Wales and Scotland.

6. European Convention on Human Rights

The Minister of State for Work and Pensions, Angela Eagle, has made the following statement regarding Human Rights:

In my view the provisions of the National Insurance Contribution Credits (Transfer of Functions) (Northern Ireland) Order 2010 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 From 6 April 2010 a weekly National Insurance credit for parents and carers in respect of their caring activities will be introduced. The credit replaces Home Responsibilities Protection.

7.2 The policy intention is that HMRC should make decisions concerning credits for foster carers and Child Benefit recipients and their partners as they do now in respect of Home Responsibilities Protection. However, under current legislation they do not have the power to do so.

7.3 The Order therefore provides for the transfer of decision making functions in respect of the new credit from the Department for Social Development to HMRC. It means that HMRC is able to administer the new system of credits on the Department's behalf. It also provides that appeals against these decisions can be made to an appeals tribunal rather than to the tax commissioners.

- *Consolidation*

7.4 This instrument amends section 23A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992. There are no current plans to consolidate this Act. Informal consolidation will be provided by way of "The Law Relating to Social Security" (Blue Volumes), available on line to the public at http://www.dsdni.gov.uk/law_relating_to_social_security

8. Consultation outcome

The Department has already consulted on the proposed carer's credit, which is covered by separate legislation. This Order is simply a technical instrument which enables the new credit to be administered by HMRC for specified people. Therefore, as there is no policy shift, or change in the service to be provided to the public, we do not believe that further consultation is necessary.

9. Guidance

9.1 The Department for Social Development will continue to liaise with the Department for Work and Pensions to develop plans for publicising the new carer's credit. Short-term communication activity has primarily been concerned with providing people with accurate information about pension reform through existing channels. Paper and web-based information has been updated to ensure that key messages relating to pensions reform relevant to the target audience are included.

9.2 It has published guidance for staff and third party advisors on pension reform and will publish guidance material for people applying for the new credit and for those certifying the level of care being provided.

10. Impact

10.1 This instrument does not impact upon business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible. The Order will maintain the existing established administrative process.

10.3 A full impact assessment has not been published for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Department for Social Development will continue to work with the Department for Work and Pensions to review and monitor state pension awards and accrual, the level and distribution of pensioners' total incomes and levels of understanding of the state pension system. It will continue to publish quarterly statistical data on pensioner incomes and annual departmental reports.

13. Contact

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the instrument.