

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (CREDITS) (AMENDMENT) (NO. 2) REGULATIONS 2012**

**2012 No. 2680**

**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 purpose of this instrument is to amend regulation 9F of the Social Security (Credits) Regulations 1975 (S.I. 1975/556). The regulation provides that a Child Benefit recipient may transfer a National Insurance credit to a specified adult in certain circumstances. One of the conditions is that the Child Benefit recipient must have a qualifying year through paid class 1 National Insurance contributions. This instrument amends the provision so that a Child Benefit recipient may transfer a National Insurance credit obtained from any means except for a class 3 National Insurance credit credited based on an award of Child Benefit.

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

3.1 None

**4. Legislative Context**

4.1 The Social Security (Credits) Regulations 1975 allow for National Insurance contributions to be credited in certain circumstances. For example where a person is incapable of work through illness or disability; unemployed and available for, and actively seeking work; where they receive Child Benefit for a child under 12.

Regulation 9F allows specified adults to apply for credits if they are providing care for a child under 12, where they are not the Child Benefit recipient. The regulation currently allows for the Child Benefit recipient to transfer their National Insurance credit to a specified adult providing they already have a qualifying year from paid Class 1 contributions only. The original policy intention was that if the Child Benefit recipient had a qualifying year by any means, they would be able to transfer their National Insurance credit to the applicant.

**5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain. Separate but corresponding provision will be made for Northern Ireland.

## **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 Specified Adult Childcare credits are available to adults over 16 who provide childcare for family members under 12. The credits recognise the important contribution that certain family members (for example, grandparents) make by providing this childcare and enabling the primary carer to work. Specified Adult Childcare credits help to ensure that a person's National Insurance contributions record is maintained for basic state pension and bereavement benefits purposes. People in receipt of Child Benefit for a child under 12 automatically receive credits. In some cases they do not need the credits because they have qualifying years by other means, for example through paid National Insurance contributions. The policy intention was to allow the Child Benefit recipient to be able to transfer their credits to the specified adult in these circumstances. It was never intended to limit its application where the qualifying year had been achieved only through the payment of Class 1 National Insurance contributions. As currently drafted this is the effect of the regulations. This amendment ensures that family members providing childcare will be eligible to apply for a Specified Adult Childcare credit if the primary carer has no need of credits derived from Child Benefit because they have a qualifying year by other means except for a class 3 National Insurance credit credited based on an award of Child Benefit.

- Consolidation

7.2 There are currently no plans to consolidate the regulations amended by this instrument. Informal consolidation of this instrument will be provided in due course by way of "The Law Relating to Social Security" (Blue Volumes) which is available online on the DWP website free of charge to the public at:

<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relatingto-social-security/>

## **8. Consultation outcome**

8.1 As this instrument seeks to achieve the original policy intention no further consultation has been carried out.

8.2 A consultation on the existing regulation was held between 15 October and 26 November 2010. The comments received were published on the Department for Work and Pensions' website on 14 November 2011.

8.3 The draft regulations were presented to the Social Security Advisory Committee who has confirmed that they do not wish to have them formally referred.

## **9. Guidance**

9.1 The Department for Work and Pensions will ensure that guidance to the public clearly states that people will be able to transfer this Specified Adult Childcare credit from the primary carer to another family member if the relevant conditions are satisfied.

## **10. Impact**

10.1 A full Impact Assessment has not been published for this instrument as it has no impact on the private sector and civil society organisations.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 Through analysis of administrative data, surveys and other sources, the Department for Work and Pensions will continue to monitor:

- state pension and contributory benefit awards and accrual;
- the level and distribution of pensioners' and benefit recipients' total incomes; and
- the level of understanding of the state pension and contributory benefits systems.

## **13. Contact**

Ailsa Harris at the Department for Work and Pensions Tel: 0207 449 7148 or email: [Ailsa.Harris@dwp.gsi.gov.uk](mailto:Ailsa.Harris@dwp.gsi.gov.uk) can answer any queries regarding the instrument.