

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS (EXERCISE OF FUNCTIONS) ORDER 2014
2014 No. 3280

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 This order allows the Department for Work and Pensions (DWP), alongside Her Majesty's Revenue and Customs (HMRC) to collect tax credit debt (covering overpayments, penalties and interest) so that DWP can collect that debt by the methods it uses to collect its own debt, including deductions from benefit and Direct Earnings Attachments.

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

- 3.1 None

4. **Legislative Context**

- 4.1 Section 126 of the Welfare Reform Act 2012 allows tax credit functions of HMRC, by Order, either to be transferred to DWP or for those functions to be performed concurrently by DWP.

5. **Territorial Extent and Application**

- 5.1 This instrument applies to Great Britain.

- 5.2 Similar provisions will be enacted in Northern Ireland once their own welfare reform provisions have been enacted.

6. **European Convention on Human Rights**

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

7. **Policy background**

- 7.1 The Welfare Reform Act 2012 introduced a new benefit, Universal Credit, to replace a range of existing working age benefits including tax credits.

- 7.2 This will ultimately result in the abolition of tax credits as new claims are submitted for Universal Credit and existing tax credit claims are, over time,

migrated to the new benefit.

- 7.3 Currently HMRC recover any excess payments (i.e. overpayments) by a number of methods including by adjustment to any on-going tax credit award of the person owing the debt, which is the simplest and most cost effective method of recovery.
- 7.4 In the future there will be no on-going tax credit claims and HMRC will need to use other, less cost effective, methods of recovery.
- 7.5 In order to protect public funds and recover overpaid amounts as cost effectively as possible in the future we are legislating to enable recovery of tax credit debt by DWP by the methods it uses to collect its own debt, including deduction from benefit and Direct Earnings Attachment.

- Consolidation

Informal consolidated text of instruments is available to the public free of charge via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website legislation.gov.uk . An explanation as to which instruments are maintained on each site is available [here](#).”

8. Consultation outcome

- 8.1 No consultation was undertaken as this legislation has no impact on the liability of individuals who have outstanding overpayments of tax credit; they will owe the same amount before and after the changes. The changes merely allow for use of alternative methods of recovery, none of which will be imposed unless the person does not repay their debt.

9. Guidance

- 9.1 Guidance is available for both DWP and HMRC staff, who will then be able to answer any queries that people may have about the recovery of their overpaid tax credit.

10. Impact

- 10.1 There is no impact on business or civil society.
- 10.2 The impact on the public sector is neutral; the change will simply result in action (the recovery of tax credit overpayments) that was undertaken by HMRC being undertaken in DWP in some cases.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to small businesses.

12. Monitoring and review

12.1 The levels of recovery of outstanding tax credit will be monitored and compared to historical HMRC recovery to ensure that public funds continue to be protected and effective recovery continues.

13. Contact

Alan Clark at the Department for Work and Pensions Tel: 0113 251 9131 or email: alan.clark1@dwp.gsi.gov.uk can answer any queries regarding the instrument.