

**EXPLANATORY MEMORANDUM TO**  
**THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (AMENDMENT)**  
**REGULATIONS 2016**

**2016 No. 232**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument makes minor modifications to the requirements for notifications issued by HM Revenue and Customs (HMRC) when notifying someone of how an existing tax credit overpayment will be recovered. Specifically it includes the whole range of recovery options available to DWP to recover a tax credit debt which is transferred to them. Transfer of tax credit debt from HMRC to DWP forms part of the introduction of Universal Credit (UC) ensuring that recovery of public funds continues when customers migrate from the tax credit regime to UC. It is anticipated that over the full span of UC roll out, around 3.6 million customers will have their debts transferred from HMRC to DWP. However, this instrument does not alter the process for these individuals but merely enables HMRC to issue notices alerting them to how their debts will be recovered once they have claimed UC.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 This instrument is being laid to ensure that the tax credit legislation requiring HMRC to issue notifications explaining how a specific tax credit debt will be recovered is consistent with the methods that may be employed by DWP to recover tax credit debts. It does not introduce any new methods of recovery for DWP; these have already been established by the Welfare Reform Act 2012 [http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga\\_20120005\\_en.pdf](http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga_20120005_en.pdf) and the Tax Credit (Exercise of Functions) Order 2014. [http://www.legislation.gov.uk/uksi/2014/3280/pdfs/uksi\\_20143280\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/3280/pdfs/uksi_20143280_en.pdf)

**5. Extent and Territorial Application**

- 5.1 The extent of this instrument is Great Britain.  
5.2 The territorial application of this instrument is Great Britain.

## **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**

### *What is being done and why*

- 7.1 The Welfare Reform Act 2012 introduced UC which replaced a range of working age benefits including tax credits. Existing tax credit claims will, over time, be eventually migrated to UC. When a tax credit recipient moves to UC, any outstanding tax credit debt will be transferred to DWP for recovery. HMRC is required to issue notifications explaining how a tax credit will be recovered. The specific tax credit legislation requiring HMRC to issue notifications explaining how a tax credit debt will be recovered is section 29 of the Tax Credits Act 2002.  
[http://www.legislation.gov.uk/ukpga/2002/21/pdfs/ukpga\\_20020021\\_en.pdf](http://www.legislation.gov.uk/ukpga/2002/21/pdfs/ukpga_20020021_en.pdf)
- 7.2 Regulation 12(4) of the Universal Credit (Transitional Provisions) Regulations 2014 [http:// www.legislation.gov.uk/uksi/2014/1230/contents](http://www.legislation.gov.uk/uksi/2014/1230/contents) modifies the operation of section 29(4) to provide alternative means of recovery in cases where a person claims UC. This currently provides for recovery by deductions from on-going UC. In order for DWP to recover overpaid tax credits as cost effectively as possible it legislated in 2014 via the Tax Credits (Exercise of Functions) Order 2014 so that it can also use any of the methods it uses to collect its own debt.  
<http://www.legislation.gov.uk/uksi/2014/3280/contents>. These regulations substitute a new version of regulation 12(4) in order to allow notifications under s29(4) to provide for recovery by other DWP recovery methods available under the Social Security Administration Act 1992, [www.legislation.gov.uk/ukpga/1992/5/pdfs](http://www.legislation.gov.uk/ukpga/1992/5/pdfs) specifically deductions from benefit (including UC), deductions from earnings or recovery through court action.
- 7.3 Whilst recovery through deduction from UC will be the method of recovery used by DWP in the vast majority of cases, there will be cases where UC entitlement ends before a debt is fully collected. In those cases DWP will use other methods of recovery as detailed in 7.2 above, and this instrument ensures these are covered in HMRC notifications.

### *Consolidation*

- 7.4 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](http://www.legislation.gov.uk). An explanation as to which instruments are maintained on each site is available <http://www.dwp.gov.uk/docs/lawvolnews.pdf>.

## **8. Consultation outcome**

- 8.1 Consultation was not undertaken because the nature of the change is purely technical, and the policy change could not be influenced. The recovery of tax credit debt by DWP has already been agreed by Parliament in the Welfare Reform Act 2012 and the Tax Credit (Exercise of Functions) Order 2014.

## **9. Guidance**

- 9.1 No guidance will be required as this technical change does not introduce any new process or requirement.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector. This instrument makes minor modifications that will enable HMRC to issue a notification to someone with a tax credit debt which advises how the debt will be recovered.
- 10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 There are no plans to monitor or review this instrument as it does not introduce any new powers or processes.

## **13. Contact**

- 13.1 Alan Clark at the Department for Work and Pensions Telephone: 0113 2519131 or email: alan.clark1@dwp.gsi.gov.uk can answer any queries regarding the instrument.