

**EXPLANATORY MEMORANDUM TO**  
**THE STATE PENSION CREDIT (ADDITIONAL AMOUNT FOR CHILD OR**  
**QUALIFYING YOUNG PERSON) (AMENDMENT) REGULATIONS 2018**

**2018 No. 676**

**1. Introduction**

- 1.1 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 Support for low income pensioners with responsibility for children is currently provided through Child Tax Credit, which is being abolished in accordance with the Welfare Reform Act 2012 (“the 2012 Act”)<sup>1</sup>. The purpose of this instrument is to ensure that support for children continues to be provided for low income pensioners by introducing a new additional amount within Pension Credit.

**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 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 The 2012 Act provided for reforms, which will, over time, replace current income-related benefits and tax credits for people under the Pension Credit qualifying age, and will include the eventual abolition of Child Tax Credit. Currently there is no provision for children in Pension Credit and support for pensioners with responsibility for a child or qualifying young person (QYP) is provided through Child Tax Credit. A commitment was made during the passage of the 2012 Act that, once Child Tax Credit was abolished, support for low income pensioners with responsibility for children would be provided by Pension Credit.<sup>2</sup>
- 4.2 This instrument introduces that support by providing for an additional amount to be added into the Guarantee Credit element of Pension Credit for those who have responsibility for a child or QYP, as determined in accordance with a new schedule which is to be inserted into the State Pension Credit Regulations 2002<sup>3</sup>.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2012/5/contents>

<sup>2</sup> “we also believe that pensioners on low income continue to receive support for dependent children...we will provide the support through pension credit.” Chris Grayling, commons committee Welfare Reform Bill, April 2011.

<sup>3</sup> [http://www.legislation.gov.uk/uksi/2002/1792/pdfs/uksi\\_20021792\\_310817\\_en.pdf](http://www.legislation.gov.uk/uksi/2002/1792/pdfs/uksi_20021792_310817_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
- 5.3 Separate legislation for Northern Ireland will be produced and led by the Department for Communities in Northern Ireland.

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

- 6.1 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 The Government considers it important that support should continue to be available for low income pensioners who have responsibility for a dependent child or QYP after Child Tax Credit has been abolished.
- 7.2 Pension Credit is the income-related benefit that ensures low income pensioners can receive a standard minimum income, and it is therefore logical that support for children for low income pensioners be provided through Pension Credit.
- 7.3 To ensure consistency across the benefits, the support for children in Pension Credit will broadly replicate the amounts of Child Tax Credit. A Pension Credit recipient will be awarded an additional amount for each child or QYP for whom they are responsible, with a higher additional amount awarded for a child with a disability.

### *When the additional amount for a child or QYP is payable*

- 7.4 If the claimant is currently getting Child Tax Credit then that will continue until they have a change of circumstance that ends their award, or until they are migrated to Pension Credit as part of a phased process ahead of the abolition of tax credits.
- 7.5 An additional amount will be awarded to claimants of Pension Credit who have responsibility for a child or QYP as part of the Guarantee Credit element of their Pension Credit award. This additional amount will not be awarded if the claimant has an award of a tax credit.
- 7.6 Because of the way that tax credits currently operate, it is necessary for the Regulations to define when claimants are to be treated as having an award of tax credits for the purpose of determining whether the additional amount of Pension Credit should be awarded. HMRC will continue to award tax credits for the period during which the customer is allowed to renew their claim following the end of the tax year.
- 7.7 The additional amount of Pension Credit will not be awarded during the renewal period, however it can be awarded after this period if a renewal claim for tax credits is not made and tax credits cease.
- 7.8 In some circumstances, the tax credit claim can be reinstated after the period for renewals has passed when payments have ceased. In these cases the claimant would no longer be entitled to an additional amount for a child or QYP within their Pension Credit.

***The definition of a child or QYP and determining responsibility for a child or QYP***

- 7.9 For the purpose of these Regulations a “child” means someone under the age of 16, whilst a QYP is a person who has reached the age of 16 but not the age of 20, and has enrolled or been accepted in full-time, non-advanced education or approved training before the age of 19. This is the existing definition in the State Pension Credit Regulations.
- 7.10 A person will be treated as responsible for a child or QYP who normally lives with them. However they cannot be treated as responsible if they are living together with a QYP as a couple.
- 7.11 In situations where a child or QYP resides with two or more people who are not a couple, only one person can be treated as responsible for a child or QYP, and that is the person who has the main responsibility. The Regulations allow them to nominate which of them has the main responsibility. The Secretary of State has the discretion to decide who has main responsibility if no agreement can be made or where it is considered that the nomination does not reflect the arrangements for the child or QYP.
- 7.12 A person is to be treated as not responsible for a child or QYP during a period for which they are looked after by a local authority. This is subject to an exception for planned short term breaks, or one of a series of such breaks, for the purpose of providing the responsible person with a period of respite.
- 7.13 There is also an exception for periods where the child or QYP is placed with, or continues to live with, their parent or a person who has parental responsibility for them. Parental responsibility is defined in the Regulations.
- 7.14 A person cannot be treated as responsible for a child or QYP for any time that the child or QYP is a prisoner, as defined in the State Pension Credit Regulations 2002

***Temporary absences of the child or QYP***

- 7.15 A claimant is to be treated as not responsible for a child or QYP if they are away from the claimant in Great Britain if the absence is likely to exceed a specified period. There are separate rules for absences outside Great Britain.
- 7.16 Where a child or QYP is absent from the claimant but remains within Great Britain the claimant can still be treated as responsible for them as long as the absence is not expected to be for more than 52 weeks. If it was known at the start of the absence that it will exceed 52 weeks, responsibility will cease from the start of the absence, unless there are exceptional circumstances, for example that the child or QYP is in hospital and the absence is not expected to be substantially longer than 52 weeks.
- 7.17 If the absence is outside Great Britain, then the length of time for which a claimant is treated as responsible varies according to the circumstances as detailed below:
- Up to and including 4 weeks where the absence is not expected to exceed 4 weeks.
  - Up to and including 8 weeks where the absence is not expected to exceed 8 weeks and is in connected with the death of the claimant’s partner, another child or QYP usually living with the claimant, or in connection with the death of a close relative of the claimant or a usual member of the household and it is unreasonable to expect a return within 4 weeks,

- Up to and including 26 weeks where the absence is not expected to exceed 26 weeks and the child or QYP is required to undergo treatment for an illness, has to go into convalescence or care as a result of treatment for an illness, or is accompanying the claimant or the claimant's partner whilst they are in care or convalescence.

#### ***Death of a child or QYP***

- 7.18 Where a child or QYP dies, there will be a run-on period of 8 weeks, to allow the claimant time to adjust to their new circumstances. This aligns with the rules that apply in Housing Benefit in order to achieve consistency of treatment across the two benefits, which can be received at the same time.

#### ***The amount payable***

- 7.19 The following weekly rates will be payable:
- each child or QYP :-£53.34
  - further amount for disability:- £29.02
  - further amount for severe disability or a child or QYP that is certified as severely sight impaired or blind by a consultant ophthalmologist :- £88.34
  - eldest child or QYP born before 6<sup>th</sup> April 2017 : £63.84

#### ***Consolidation***

- 7.20 Informal consolidated text of instruments is available to the public free of charge via 'the National Archive' website [legislation.gov.uk](http://legislation.gov.uk).

### **8. Consultation outcome**

- 8.1 The proposed change was debated during the passage of the 2012 Act, where a commitment was given to Parliament that support for children in low income pensioner households would be provided through Pension Credit following the abolition of Child Tax Credit. We have therefore not considered it necessary to carry out any further consultation.

### **9. Guidance**

- 9.1 Customers will be informed of the change to the support provided through Pension Credit via coordinated communications from DWP and HMRC and information will also be made available on GOV.UK prior to the Regulations coming into force. The GOV.UK hosted Pension Credit calculator, which allows claimants to check if they are likely to be eligible for Pension Credit and gives claimants an estimate of the amount of award, will be updated to include the amount of support for a child or QYP and appropriate messaging.
- 9.2 The changes will be communicated to external stakeholders through our national DWP/HMRC forums and our local Partnership manager networks. Information will be made available on GOV.UK, to inform claimants and ensure they take the correct action based on their individual household circumstances.
- 9.3 Operational staff guidance will be available.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector, in terms of increased Pension Credit expenditure, is estimated to be between £30million and £50million per year from 2022/23 onwards. The volume of recipients of support for children and QYPs through Pension Credit, as a result of this change, will increase gradually from 2019/20 before reaching a steady state in 2022/23. This is a consequence of the phased migration of Child Tax Credit claimants to Pension Credit ahead of the abolition of Tax Credit.
- 10.3 A Regulatory Impact Assessment has not been prepared for this instrument, because no impact on business is foreseen.
- 10.4 We anticipate that 7,000-11,000 pensioners with responsibility for children and QYPs will receive financial support for those children or QYPs through Pension Credit by 2022/23. No-one already on Tax Credits, whose circumstances remain the same, will lose out in cash terms. They will be considered for transitional protection when they are migrated to Pension Credit following the closure of Tax Credits.
- 10.5 Some claimants who would have been entitled to Child Tax Credit will not be entitled to Pension Credit, because they have income or capital above the level of the Pension Credit means test. While we are not able to provide a precise estimate of the number of claimants who will fall into this group, due to the difficulty in modelling the differences in the eligibility rules of Pension Credit and Child Tax Credit, we estimate that the maximum number of people who will not be entitled to Pension Credit, but would have been entitled to Child Tax Credit, is around 1,500 in 19/20, rising to around 2,400 in 20/21, then falling to around 1,800 in 21/22. We would expect the actual number of claimants who will not qualify for Pension Credit to be lower than this, because some who would not previously have qualified for Pension Credit will do so once the additional amount for those responsible for children or QYPs is included; the introduction of additional amounts for children or QYPs into Pension Credit will increase the maximum award for those with responsibility for children or QYPs, increasing the amount of income that they can have and still be entitled to the benefit.
- 10.6 A project team has been set up to ensure the effective delivery of this change. The initial implementation of the change will involve establishing a small team of dedicated staff to manually process the relatively small number of claims for support for children or QYPs. Implementing this policy will cost under £3m in DEL over the next 5 years.

## **11. Regulating small business**

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

## **12. Monitoring & review**

- 12.1 The collection of management information (MI) will be built into all processes to enable the monitoring, evaluation and review of the effectiveness of the delivery of these changes. This MI will also be used to make future improvements to the service. We will also review the operating model to ensure this remains fit for purpose and meets the needs of our claimants and the organisation.

### **13. Contact**

- 13.1 Sarah Turner at the Department for Work and Pensions. Email: Sarah.Turner1@dwp.gsi.gov.uk can answer any queries regarding the instrument.