

EXPLANATORY MEMORANDUM TO
THE TAX CREDITS AND CHILD BENEFIT (MISCELLANEOUS AMENDMENTS)
REGULATIONS 2022

2022 No. 555

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends the Child Benefit and Guardian's Allowance (Decisions and Appeals) Regulations 2003 (S.I. 2003/916) by making the provision of an appropriate bank or other account an entitlement condition for Child Benefit.
- 2.2 Also included in this instrument is an example of what may constitute information to be given to HMRC when requested into the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 (S.I. 2003/492).
- 2.3 The temporary measure introduced by The Child Benefit (General) (Coronavirus) Regulations 2021 (S.I. 2021/630) to ensure entitlement to Child Benefit remained where examinations were cancelled due to coronavirus is repealed.
- 2.4 The now redundant coronavirus-related regulations introduced by The Tax Credits (Coronavirus, Miscellaneous Amendments) Regulations 2020 (S.I. 2020/534) and The Tax Credits, Childcare Payments and Childcare (Extended Entitlement) (Coronavirus and Miscellaneous Amendments) Regulations 2020 (S.I. 2020/1515) are repealed by this instrument.
- 2.5 The instrument removes references to The Approval of Home Childcare (Wales) Scheme 2007, in The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005), as this scheme has been superseded.
- 2.6 References in The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005) to the Fostering Services Regulations 2002 are replaced with the Care Planning, Placement and Case Review (England) Regulations 2010 and references to the Fostering Service (Wales) Regulations 2003 are replaced with the Care Planning, Placement and Case Review (Wales) Regulations 2015 which supersede the earlier regulations.
- 2.7 A redundant provision in The Tax Credits (Claims and Notifications) Regulations 2002 (S.I. 2002/2014) which allowed a late declaration to a section 17 notice to be treated as a new claim to tax credits is removed. There are no new claims to tax credits permitted from 30th March 2022.
- 2.8 This instrument changes the age of a qualifying young person in The Tax Credits (Payment by the Commissioners) Regulations 2002 (S.I. 2002/2173) from "nineteen"

to “twenty” to align with the age of a qualifying young person in The Child Tax Credit Regulations 2002 (S.I. 2002/2007).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Section 18 of the Child Benefit and Guardian’s Allowance (Decisions and Appeals) Regulations 2003 (S.I. 2003/916) sets out the circumstances in which payments of Child Benefit and Guardian’s Allowance can be suspended. Section 19 obliges a claimant to provide information or evidence. Section 20 provides for termination of an award of Child Benefit where a claimant fails to provide information or evidence to HMRC.

6.2 The Tax Credits (Payment by the Commissioners) Regulations 2002 (S.I. 2002/2173) prescribes the maximum age for a qualifying young person.

6.3 Various miscellaneous amendments packages introduced temporary coronavirus measures tied to the end of the Coronavirus Job Retention Scheme through S.I. 2020/534 and 2020/1515.

7. Policy background

Requiring bank account details for Child Benefit

7.1 Due to the cessation of the contract between HMRC and the Post Office, HMRC is no longer able to make payments of tax credits or Child Benefit into a Post Office Card Account.

7.2 Where no appropriate bank account details are provided to HMRC, tax credits payments can be postponed and Child Benefit payments can be suspended. After a period of three months, where no alternative bank account is provided, entitlement to tax credits ends. There are no similar provisions in Child Benefit to terminate an award, effectively leaving a permanent pause in payments with claimants unable to lawfully challenge this position.

7.3 This instrument will amend the Child Benefit and Guardian’s Allowance (Decisions and Appeals) Regulations 2003 (S.I. 2003/916) so that failure to provide an appropriate account can result in the claimant no longer being entitled to Child Benefit. Claimants may challenge this decision through Mandatory Reconsideration or make a new claim to Child Benefit which will be subject to backdating provisions.

- 7.4 Provisions exist for a manual payment solution in limited exceptions where a claimant is unable to open a bank account. These exceptions will be/are considered upon receipt of a response from the claimant to HMRC's request for information.
- 7.5 This instrument also amends the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 (S.I. 2003/492) by inserting an example into the requirement that a person must provide any information and evidence HMRC may require in connection with the payment of a benefit or allowance. The example inserted provides that where a person is in receipt of a benefit or allowance by means other than a direct credit transfer, that person must, if required, provide details of a bank or other account to which payment can be made.

Repeal of amendments for cancelled exams

- 7.6 This instrument repeals temporary coronavirus measures introduced in response to the disruption caused to education by the pandemic where formal school exams were cancelled.
- 7.7 The Child Benefit (General) (Coronavirus) (Amendment) Regulations 2021 (S.I. 2021/630) introduced time-limited regulations to ensure that the date at which a child ceases to be in relevant education was not inadvertently affected by exam cancellations and that entitlement to Child Benefit was preserved.
- 7.8 These changes applied only for the Summer 2021 term and are no longer relevant.

Repeal of Coronavirus measures

- 7.9 These measures extended the period of time for which critical workers had to notify HMRC of changes which could be backdated. This allowed HMRC to backdate relevant changes by up to three months instead of the prescribed one month. The measures for furloughed individuals and those who experienced a temporary reduction in their hours meant claimants could remain eligible for Working Tax Credit because they were treated as still working their normal hours. These measures were time-limited to the end of the Coronavirus Job Retention Scheme which ended on 30 September 2021 so are no longer relevant.

The Approval of Home Childcare (Wales) Scheme

- 7.10 Consequential amendments as a result of changes in devolved administrations are common and are required in order to ensure that tax credits claimants in these countries do not miss out on entitlement to tax credits as a result of devolved changes. The Approval of Home Childcare Providers (Wales) Scheme 2007 was replaced by The Approval of Home Childcare Providers (Wales) Scheme 2021 from 1 April 2022. The 2021 scheme is already referenced in legislation; this measure removes reference to the 2007 scheme, as the Welsh Government has now transferred all claimants to the 2021 version.

Definition of a foster parent

- 7.11 This measure replaces references to redundant regulatory bodies in the definition of a foster parent.

Treatment of a Section 17 notice as a new claim for tax credits who do not "renew" in time

- 7.12 This measure removes a redundant provision in The Tax Credits (Claims and Notifications) Regulations 2002 (S.I. 2002/2014) which allowed HMRC to treat a late

response to a section 17 notice (a renewal claim) as a new claim to tax credits on the day the late response is received at an appropriate office. The Welfare Reform Act 2012 abolished tax credits and the remaining exception for new tax credits claims ceased to exist from 30 March 2022. Thereby this provision can be removed.

Definition of a Qualifying Young Person

- 7.13 The Child Tax Credit (Amendment) Regulations 2006 (S.I. 2006/222) amended the age of a qualifying young person from “nineteen” to “twenty” in The Child Tax Regulations 2002 (S.I. 2003/916). This instrument will correct the age of a qualifying young person in The Tax Credits (Payment by the Commissioners) Regulations 2002 (S.I. 2002/2173). The department has complied with the requirement to consult with the SI registrar and this instrument is being issued free of charge to all known recipients of that instrument.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans to consolidate any of the regulations which are amended by this instrument.

10. Consultation outcome

- 10.1 The Social Security Advisory Committee, an advisory non-departmental public body, has been consulted on the proposed regulations.
- 10.2 The Committee raised a number of questions in the meeting regarding the cessation of entitlement to Child Benefit for those who do not provide an alternative bank account.
- 10.3 HMRC outlined the many number of measures implemented to forewarn claimants of the contract ending over the last two and a half years. HMRC continues to support claimants in opening new bank accounts and offers a manual payment solution for those who genuinely cannot open a bank account.
- 10.4 No separate consultation exercise has been conducted.

11. Guidance

- 11.1 Guidance for tax credits is available through the tax credits helpline and via <https://www.gov.uk/topic/benefits-credits/tax-credits>
- 11.2 Guidance for Child Benefit claimants is available through the Child Benefit helpline and via <https://www.gov.uk/topic/benefits-credits/child-benefit>

12. Impact

- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument because no significant impact is foreseen.

13. Regulating small business

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

14. Monitoring & review

14.1 Child Benefit claim and termination numbers are routinely monitored as part of HMRC's standard business practices. The approach to monitoring of other aspects of this legislation is minimal as these are minor consequential changes.

14.2 The instrument does not include a statutory review clause as it does not make regulatory provision in respect of a business.

15. Contact

15.1 Kay Sayer, Policy Lead in Welfare Policy in Her Majesty's Revenue and Customs (kay.sayer@hmrc.gov.uk), can be contacted with any queries regarding the instrument.

15.2 James Knipe, Deputy Director for Welfare Policy in Her Majesty's Revenue and Customs, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Simon Clarke MP, Chief Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.