EXPLANATORY MEMORANDUM TO

THE CHILDCARE PAYMENTS (AMENDMENT NO 2) REGULATIONS 2016

2016 No. 1017

1. Introduction

1.1 This explanatory memorandum has been prepared on behalf of the Treasury by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument amends The Childcare Payments Regulations 2015.

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 Childcare Payments Act 2014 ('The Act') enacted a new scheme designed to provide financial support to help working families with the costs of childcare.

4.2 The Act provides for the overall structure of the scheme and the way in which it will operate. It also contains a number of delegated powers exercised by regulations, The Childcare Payments (Eligibility) Regulations 2015 and The Childcare Payments Regulations 2015. These were since amended by The Childcare Payments (Eligibility) (Amendment) Regulations 2016 and The Childcare Payments (Amendment) Regulations 2016.

4.3 This instrument amends The Childcare Payments Regulations 2015.

4.4 Separate further amendments to The Childcare Payments (Eligibility) Regulations 2015 are subject to a separate explanatory memorandum.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

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

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 At Budget 2013, the Government announced the introduction of a new scheme, Tax-Free Childcare, designed to provide financial support to help working families with the costs of childcare. In particular the new scheme aims to support parents to take up paid work, or increase their existing working hours, should they wish to do so.

7.2 The scheme will be based on a system of childcare accounts. Eligible parents will open an online account into which they will pay money and the Government will automatically top up amounts in the account at a rate of 20p for every 80p paid in by the parent. The amounts held in the childcare accounts will have to be used to pay for qualifying childcare.

7.3 Government support will be up to £2000 per child per year. Parents will be able to have one account per qualifying child. A child will qualify for the scheme until the first week in September following their eleventh birthday or, for disabled children, until the first week in September following their sixteenth birthday.

7.4 A person will be eligible to receive top-up payments under the scheme if they have a qualifying child, meet the eligibility conditions, provide information to demonstrate that they are eligible, open a childcare account and pay money into that account.

7.5 The Childcare Payments Regulations 2015 provided detailed rules on the meaning of qualifying childcare; entitlement periods and in what circumstances they can be varied; declarations of eligibility; representatives of account holders; opening and closing accounts; variation of relevant maximum payments that will be topped up; compensatory payments; account restriction orders; information powers; disqualification orders; and digital applications and declarations.

7.6 The Childcare Payments (Amendment) Regulations 2016 amended The Childcare Payments Regulations 2015. These amendments were technical and largely intended to improve the design of the scheme through simplifying our approach to late declaration, improving account restriction orders, adding an additional circumstance that would give rise to a compensatory payment and providing for customers that are unable to assure their identity online. It also removed the requirement for parents to provide a Child Benefit Number. It also required self-employed individuals -upon reconfirming their eligibility for the scheme - to provide proof of their self-employed status. This also applied to persons' partners who are self-employed in another EEA state. It also contained an amendment to the definition of 'personal independence payment' to include a reference to the Northern Ireland legislation.

7.7 This instrument contains a further amendment to The Childcare Payments Regulations 2015. This is a technical amendment in relation to the period for making a declaration of eligibility and when it will be determined as valid by HMRC. The amendment corrects a word that inadvertently expanded the 28 day period intended for reconfirmation to include the whole of the next entitlement period.

8. Consultation outcome

8.1 The Government published a formal consultation on 5th August 2013. The response to this was published on 18th March 2014. A further consultation ran on how childcare accounts will be provided under the new scheme and the response to this was published on 29th July 2014.

8.2 Formal consultation on the draft version of the Childcare Payments Regulations 2015 took place between 4th July and 3rd October 2014 in line with Government guidance on public consultation.

9. Guidance

9.1 HM Revenue and Customs will be publishing further guidance on the operation of the scheme. Draft guidance was published on 16th October 2014.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A full Impact Assessment of the effect that the childcare payments scheme will have on the costs of business and the voluntary sector was published on 18th November 2014 alongside The Childcare Payments Act 2014 and is available from the gov.uk website at https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment. It remains an accurate summary of the impacts that apply to 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 The policy will be reviewed two years after full implementation of the scheme to assess whether Tax-Free Childcare is delivered effectively and supports working families as intended.

13. Contact

13.1 Phil Mattacks at the HM Revenue and Customs. Telephone: 03000 585 501 or email: phil.mattacks@hmrc.gsi.gov.uk can answer any queries regarding the instrument.