EXPLANATORY MEMORANDUM TO

THE CHILDCARE PAYMENTS REGULATIONS 2015

2015 No. 522

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument contains the detailed rules concerning the operation of top-up payments under the scheme enacted by the Childcare Payments Act 2014.

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

3.1 None

4. Legislative Context

4.1 The Childcare Payments Act 2014 enacted a new scheme designed to provide financial support to help working families with the cost of childcare. 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 up to a maximum amount for each entitlement period (normally lasting three months). The amounts held in the childcare accounts will have to be used to pay for qualifying 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 to be exercised by regulations made by statutory instrument which will set out the detailed rules of the scheme. Two main statutory instruments exercising the powers contained in the Act have been prepared. This instrument contains the detailed rules concerning the operation of the scheme. Another instrument, the Childcare Payments (Eligibility) Regulations 2015 (S.I. 2015/448), contains the conditions that a person must meet in order to receive support for their childcare costs.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 At Budget 2013, the Government announced the introduction of a new scheme, referred to as Tax-Free Childcare, designed to provide financial support to help working families with the cost 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, £4,000 for a disabled child. 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 Legislation to implement the new scheme, the Childcare Payments Act, received Royal Assent on 17th December 2014.

7.5 A person will be eligible to receive support 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. Further details of the eligibility conditions can be found in sections 6 to 13 of the Act and the Childcare Payments (Eligibility) Regulations 2015.

7.6 This instrument provides 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.

7.7 The scheme is being designed to be operated digitally through online accounts, but alternative contact channels will be made available for those unable to access the service digitally.

8. Consultation outcome

8.1 The Government published a formal consultation document on the design and operation of the new scheme on 5th August 2013 and the consultation ended on 14th October 2013. The response to the consultation was published on 18th March 2014. A further consultation was published on 23rd May 2014 and ran until 27th June 2014 on how childcare accounts will be provided under the new scheme. The response to that consultation was published on 29th July 2014.

8.2 Formal consultation on this draft instrument took place between 14th July and 3rd October 2014 in line with Government guidance on public consultation. The response to that consultation was published on 9th February 2015.

8.3 13 organisations responded to the consultation and respondents generally welcomed the opportunity to comment on the scheme. Some respondents raised policy questions that were outside the scope of the consultation - for example the use of a name other than Tax-Free Childcare for the scheme and that households in which only one partner is in paid employment should benefit from the scheme.

8.4 Several issues were raised about the digital design of the scheme including concern at how digitally excluded individuals would access the scheme. The regulations provide scope for discretion in deciding what exceptions should be made for customers unable to use digital services and further clarification will be provided in guidance.

8.5 Further details can be found in the published response document.

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 The instrument in itself does not specifically impact on charities or voluntary bodies. The impact on business (some of which may have charitable status) is that childcare providers must be registered with or approved by the appropriate authority in order to qualify as childcare under the scheme. In addition, businesses with relevant information such as employers of scheme users, childcare providers or businesses providing services in relation to other government schemes that interact with this scheme may be required to provide information to HM Revenue and Customs.

10.2 The instrument in itself does not impact on the public sector except where the public sector is also an employer and is impacted as explained in paragraph 10.1.

10.3 An Impact Assessment for the Childcare Payments Act (including secondary legislation) was published on 18th November 2014 and is available at https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment and

http://www.parliament.uk/documents/impact-assessments/IA14-09A.pdf
It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The instrument does not regulate small business.

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. Further details are provided in the published Impact Assessment at https://www.gov.uk/government/publications/tax-free-childcare-impact-assessment and

http://www.parliament.uk/documents/impact-assessments/IA14-09A.pdf.

13. Contact

Craig Mason at HM Revenue and Customs Tel: 03000 585276 or email: craig.mason@hmrc.gsi.gov.uk can answer any queries regarding the instrument.