EXPLANATORY MEMORANDUM TO

THE TAX CREDITS AND GUARDIAN'S ALLOWANCE UP-RATING ETC. REGULATIONS 2017

2017 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") on behalf of Her Majesty's Treasury ("HMT") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These regulations ("the Up-rating Regulations") set the rates of the disability elements of Child Tax Credit ("CTC") and Working Tax Credit ("WTC") from 6 April 2017, and the weekly rate of Guardian's Allowance ("GA") from 10 April 2017, as published alongside Autumn Statement 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument relies on section 105 of the Deregulation Act 2015 to make a single instrument rather than separate instruments each making a relatively small number of changes. Regulation 5 is made under order-making powers in section 132(1) of the Social Security Administration (Northern Ireland) Act 1992 ("Northern Ireland Administration Act"). Section 105 of the Deregulation Act 2015 has not been cited in the preamble to the instrument on the basis that it is materially parallel to provisions in the Interpretation Act 1978.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument varies between provisions.

4. Legislative Context

4.1 Section 41 of the Tax Credits Act 2002 ("TCA") requires HMT to review certain elements of tax credits in each tax year in order to determine whether those elements have retained their value in relation to the general level of prices in the United Kingdom as estimated by HMT in such manner as it considers appropriate. The elements that must be reviewed are set out in section 41(2) TCA but some of those elements are not required to be reviewed in this tax year (or the tax years ending 5 April 2017 – 5 April 2019) by virtue of section 12 of the Welfare Reform and Work Act 2016 ("WRAW"). A copy of the review is attached as an annex to this memorandum.

4.2 Section 13 of the WRAW amended section 9 of the TCA so as to provide for a new disability element of CTC that is payable in respect of every child who is disabled or severely disabled with effect from 6 April 2017. This new disability element of CTC replaces the individual element of CTC that was payable in respect of a disabled or severely disabled child. The Child Tax Credit (Amendment) Regulations 2017

(S.I./xx) will amend regulation 7 of the Child Tax Credit Regulations 2002 (S.I. 2002/2007) (amongst other matters) by replacing the individual element payable in respect of a disabled or severely disabled child with the new disability element of CTC for the tax year 2017/18 and subsequent tax years. The Child Tax Credit (Amendment) Regulations 2017, which are subject to the negative parliamentary procedure, will be made and laid before Parliament and come into force on 6 April 2017. These Up-rating Regulations set the rate of the new disability element of CTC.

4.3 Section 150(1)(a)(i) of the Social Security Administration Act 1992 ("Great Britain Administration Act"), and section 49(3) of the TCA, requires HMT in each tax year to review the amount of GA to determine whether it has retained its value in relation to the general level of prices in Great Britain. Section 150(2)(a) of the Great Britain Administration Act provides that GA (amongst other benefits) shall be up-rated in line with the increase in the general level of prices. Section 132(1) of the Northern Ireland Administration Act, and section 49(4) of the TCA, allows HMT to make corresponding provision for Northern Ireland.

4.4 Section 150(1)(i) of the Great Britain Administration Act, and section 49(3) of the TCA, require the rates of Child Benefit to be reviewed each tax year, however this is not being done for this tax year as section 11 of the WRAW provides that the rates of Child Benefit need not be reviewed in the tax years ending 5 April 2016 – 5 April 2019.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument varies between provisions.

6. European Convention on Human Rights

6.1 The Chief Secretary to the Treasury, David Gauke, has made the following statement regarding Human Rights:

"In my view the provisions of the Tax Credits and Guardian's Allowance Up-rating etc. Regulations 2017 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 Following the reviews of tax credits and GA referred to in paragraphs 4.1-4.3 above, HMT has determined that the overall level of prices has increased by 1.0 per cent as measured by the change in the Consumer Price Index (CPI) from September 2015 to September 2016.

7.2 These Up-rating Regulations increase the rates of the disability elements of WTC and the weekly rate of GA by 1.0 per cent (rounded up to the nearest £5.00 and £0.05p respectively). Regulation 2 increases the maximum rate of the disabled and severely disabled elements of WTC from £2,970 and £1,275 to £3,000 and £1,290 respectively. Regulations 4 and 5 increase the weekly rate of GA from £16.55 to £16.70.

7.3 The new disability element of CTC has been set at the difference between the amounts previously payable in respect of a child/qualifying young person and a disabled or severely disabled child/qualifying young person, and uprated in line with CPI (and

rounded up to the nearest £5.00). Regulation 3 sets the rate of the new disability element of child tax credit at £3,175 in respect of a disabled child or qualifying young person and £4,465 in respect of a severely disabled child or qualifying young person.

Consolidation

7.4 There are no plans to consolidate the legislation.

8. Consultation outcome

8.1 No consultation was undertaken for this instrument.

9. Guidance

9.1 Following Autumn Statement 2016, HM Treasury have published the following https://www.gov.uk/government/publications/tax-and-tax-credit-rates-and-thresholds-for-2017-18/tax-and-tax-credit-rates-and-thresholds-for-2017-18 . Leaflets will be updated to reflect the new rates in due course.

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 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 The rates will be reviewed in accordance with section 41 of the TCA, section 150 of the Great Britain Administration Act and sections 11 & 12 of the WRAW.

13. Contact

13.1 Philip Hogan at HMRC, on Telephone: 03000 586534 or email Philip.Hogan@hmrc.gsi.gov.uk, who can answer any queries regarding the instrument on behalf of HMT.