EXPLANATORY MEMORANDUM TO

THE TAX CREDITS, CHILD BENEFIT AND GUARDIAN'S ALLOWANCE UP-RATING REGULATIONS 2020

2020 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 (the 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 These regulations set the annual rates of Child Tax Credit (CTC) and Working Tax Credit (WTC), and the weekly rate of Child Benefit and Guardian's Allowance from 6 April 2020. A written ministerial statement setting out the Governments proposals was published on 4 November 2019. Tax credit elements and thresholds to be uprated are set out in paragraphs 7.3, 7.4 and 7.5 below.

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. 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.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument varies between provisions.

3.3 The Territorial application of this instrument is the United Kingdom except for regulation 6 which applies to England, Wales and Scotland and Regulation 7 which applies to Northern Ireland. The extent provisions of the enabling Acts under which the instrument is made are section 69 of the Tax Credits Act 2002, section 192 of the Social Security Administration Act 1992 and section 168 of the Social Security Administration (Northern Ireland) Act 1992.

4. Extent and Territorial Application

4.1 The extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom except for Regulation 6 which applies to England Wales and Scotland and Regulation 7 which applies to Northern Ireland.

5. European Convention on Human Rights

5.1 The Rt Hon Rishi Sunak MP has made the following statement regarding Human Rights: "In my view the provisions of the Tax Credits, Child Benefit and Guardians' Allowance Up-rating Regulations 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 41 of the Tax Credits Act 2002 (TCA) requires the Treasury 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. The Treasury have measured price inflation using the consumer price index (CPI) from September 2019 as measured based on the annual change since September 2018. The elements that must be reviewed are set out in section 41(2) TCA. The disapplication of uprating to most welfare benefits provided for in the Welfare Reform and Work Act 2016 (WRAW) no longer applies.

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

6.3 Section 150(1)(i) SSAA, and section 49(3) TCA, require the rates of Child Benefit to be reviewed each tax year. This will be the first year in which the rates of Child Benefit (both eldest child and subsequent children) will be increased in line with the CPI following a 4 year restriction on uprating this benefit; section 11 WRAW provided that the rates of Child Benefit need not be reviewed in the tax years ending 5 April 2017 – 5 April 2020.

7. Policy background

What is being done and why

7.1 Following the reviews of tax credits, Child Benefit and Guardian's Allowance referred to in paragraphs 6.1, 6.2 & 6.3 above, the Treasury has determined that the overall level of prices has increased by 1.7 per cent as measured by the change in the CPI from September 2018 to September 2019.

7.2 These regulations increase certain rates of CTC and WTC elements payable to eligible families and working age adults by 1.7 per cent rounded up to the nearest £5.00.

7.3 This means that the following WTC elements will be increased as follows: the basic element will be increased from £1,960 to £1,995, the second adult and the lone parent element will be increased from £2,010 to £2,045, the 30 hour element will be increased from £810 to £825, the disabled element will be increased from £3,165 to £3,220, and the severely disabled element will be increased from £1,365 to £1,390.

7.4 The following CTC elements will be increased will be increased as follows: the child/qualifying young person (QYP) element will be increased from £2,780 to £2,830, the disability rate of the child disability element will increase from £3,355 to

£3,415, and the severe disability rate of the child disability element will be increased from £4,715 to £4,800.

7.5 The WTC income threshold will be increased from £6,420 to £6,530 and the CTC Income threshold will be increased from £16,105 to £16,385.

7.6 These Regulations increase the rate of Child Benefit payable to those who are responsible for a child or QYP by 1.7 per cent, rounded to the nearest 5 pence.

7.7 This means that the weekly rate of Child Benefit for the eldest child will be increased from £20.70 to £21.05 and the rate for any subsequent children will be increased from £13.70 to £13.95.

The regulations also increase the rate of Guardian's Allowance, payable to carers of children whose parents have died or are otherwise absent, by 1.7 per cent rounded to the nearest 5 pence. Therefore, the weekly rate of Guardian's Allowance will be increased from £17.60 to £17.90.

7.8 HMRC figures show that in April 2019 there were an estimated 3.1 million claims to tax credits, 1.5 million CTC recipients, 276,000 WTC recipients and 1.3 million recipients who received both CTC & WTC.

7.9 HMRC figures show that in April 2019 there were an estimated 7.5 million claims to Child Benefit supporting 12.5 million children and approximately 3,000 claims to Guardian's Allowance.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 These regulations are remade in their entirety each tax year therefore consolidation is not appropriate.

10. Consultation outcome

10.1 No consultation was carried out as the regulations form part of the annual requirement to review and increase tax credits, Child Benefit and Guardian's Allowance.

11. Guidance

These amendments will be reflected in the tax credits and Child Benefit Technical Manuals and in guidance for claimants. The GOV.UK website will also be updated to reflect the new rates once the instrument comes into force.
https://intranet.prod.dop.corp.hmrc.gov.uk/manual/tax-credits-manual
https://intranet.prod.dop.corp.hmrc.gov.uk/manual/child-benefit-manual

12. Impact

12.1 There is no impact on business, charities or voluntary bodies as the regulations only affect individuals claiming tax credits, Child Benefit and Guardian's Allowance.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private or voluntary sectors 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 The tax credits, Child Benefit and Guardian's Allowance rates are subject to review each tax year by Treasury Ministers in accordance with section 41 of the TCA, section 150 SSAA and section 132 of the Social Security Administration (Northern Ireland) Act 1992.

15. Contact

15.1 Laura Richardson at HMRC, on Telephone 03000 581023 or email Laura.richardson2@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 James Dunstan, Deputy Director for tax credits and Child Benefit at HMRC, can confirm that this Explanatory Memorandum meets the required standard.

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