EXPLANATORY MEMORANDUM

THE NATIONAL INSURANCE CONTRIBUTIONS CREDITS (MISCELLANEOUS AMENDMENTS) REGULATIONS (NORTHERN IRELAND) 2011

S.R. 2011 No. 107

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Social Development ("the Department") to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under sections 22(5), 23A(9) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

2. Purpose

2.1 The Regulations—

- amend the Social Security (Credits) Regulations (Northern Ireland) 1975 (the "Credits Regulations") to end awards of National Insurance contribution credits for the tax year in which people reach age 16 and the two following tax years ("starting credits") for the purposes of building up entitlement to a basic state pension. National Insurance contribution credits will not be awarded in these circumstances for any tax year commencing on or after 6 April 2010;

- insert a new provision into the Credits Regulations to introduce a weekly National Insurance contribution credit for specified adults who provide care for a child under the age of 12 in respect of satisfying the qualifying conditions for a basic state pension or bereavement benefits. A class 3 National Insurance contribution may be credited to such persons for each week falling after 6 April 2011 during which they satisfy the relevant conditions; and

- amend the meaning of foster parent in the Social Security (Contributions Credits for Parents and Carers) Regulations (Northern Ireland) 2010 to include kinship carers in Scotland and those persons approved under regulations applicable in Britain.

2.2 Regulation 1 provides for citation and commencement. The Regulations come into operation on 5 April 2011.

Starting Credits

2.3 Regulation 2(2) amends regulation 4 of the Credits Regulations to provide that an award of starting credits will not be made for the purposes of a Category A or a Category B retirement pension in respect of any tax year commencing on or after 6 April 2010.

National Insurance credits for specified adults who provide care for a child under the age of 12

2.4 Regulation 2(3) adds new regulation 9F into the Credits Regulations to introduce a weekly class 3 National Insurance contribution credit for the purposes of entitlement to specified social security benefits. The credit can be awarded to specified adults providing care for a child under the age of 12.

2.5 Paragraph (2) of the inserted regulation 9F provides that contributions will only be credited to the extent to enable the contributor concerned to satisfy the contribution conditions in relation to entitlement to a Category A or Category B retirement pension, widowed parents allowance or a bereavement allowance. Paragraph (3) sets out the benefits falling under the scope of regulation 9F.

2.6 Paragraph (4) specifies certain conditions that the contributor concerned must satisfy in the relevant week in order to qualify for the award of a credit: care must be provided for a child under the age of 12, the carer must be ordinarily resident in Northern Ireland and fall into one of the groups of persons listed in the Schedule.

2.7 Paragraph (5) provides that only one person may be credited with Class 3 contributions in respect of any relevant week.

2.8 Paragraphs (6) and (7) provide that a person must make an application to the Department to be credited and will only be credited with contributions where the child benefit recipient already has attained a qualifying year through paid contributions.

2.9 Paragraph (8) provides that an application to be credited with contributions must be received after the end of the relevant tax year and include details of the child cared for, the relevant weeks the child care was provided and where requested, a declaration that the relevant conditions set out in paragraph (4) have been met.

2.10 Paragraph (9) defines “the contributor concerned”.

2.11 Regulation 2(4) inserts a new Schedule into the Credits Regulations which lists those persons who may qualify as a carer for the purposes of Regulation 9F.

Meaning of "foster parent"

2.12 Regulation 3 amends regulation 4 of the Social Security (Contributions Credits for Parents and Carers) Regulations (Northern Ireland) 2010 to update the meaning of "foster parent" to include kinship carers in Scotland and those approved as foster parents under regulations applicable in Britain.

3. Background

Starting Credits

3.1 Since April 1975, Starting Credits have been awarded to people for the tax year in which they reach age 16 and the following two tax years up to the level needed to make them qualifying years. They count towards entitlement to basic State Pension and Bereavement Benefits. The credits were intended to ensure that young people staying on in education beyond the minimum school leaving age did not lose future benefit entitlement as a result.

3.2 It is not necessary for the person concerned to have been present in Northern Ireland or Britain at the relevant time. This was intended to ensure that young people being educated abroad were not penalised. Consequently, Starting Credits may be awarded to people who come here even for a short period.

3.3 Recent reforms of State Pension introduced by the Pensions Act (Northern Ireland) 2008 mean that Starting Credits are largely irrelevant for State Pension purposes:

- the reduction in the number of qualifying years needed for a full basic State Pension to 30 from 6 April 2010 means that few people who have spent most of their working lives in Northern Ireland will need Starting Credits for this purpose;

- The requirement to have at least 25% of the total number of qualifying years for a full basic State Pension in order to qualify for any basic State Pension has been removed. People reaching State Pension age from 6 April 2010 are entitled to a pro-rata proportion of the State Pension for each qualifying year they have built up through contributions or credits;

- the availability of other types of credits such as the Parents and Carers Credit and the new familial caring credit will also provide additional protection for State Pension and Bereavement Benefits purposes for many who otherwise would have a deficient contributions record.

3.4 These changes also mean that a person with no real connection to Northern Ireland can qualify for 1/10th of a basic State Pension by virtue of being allocated a National Insurance number and awarded Starting Credits.

3.5 Initially, it was proposed to abolish Starting Credits for all purposes. However, it was identified that a small number of young people, currently below age 18, may be adversely affected by the complete removal of Starting Credits. These are people who marry or form a civil partnership, and have responsibility for children, and whose spouse or civil partner dies relatively early in their working life.

3.6 In order to get the full amount of Widowed Parent's Allowance, there is a condition that 90% of the 'working life' from the start of the tax year in which age 16 is reached until the end of the tax year before the one in which death occurs is covered by qualifying years of National Insurance contributions or credits. Where young people are concerned, Starting Credits may have a significant effect on entitlement.

3.7 In order to protect the position of bereaved people, Starting Credits will continue to be awarded for the purposes of Widowed Parent's Allowance and Bereavement Allowance. Therefore, the proposed regulations will provide that Starting Credits will not be awarded for State Pension purposes rather than being abolished entirely. There will be no new awards from 6 April 2010 but existing awards will remain in place.

National Insurance credits for specified adults who provide care for a child under the age of 12

3.8 It is recognised that many grandparents and other adults undertake familial care of a relative's child to enable the child's parents to work. For some, this may mean sacrificing their own incomes in retirement. The Budget in 2009 included an undertaking to provide for the award of National Insurance credits to working age grandparents or other adults who provide childcare that enables parents to remain in work. The credits will protect future eligibility to the basic State Pension and Bereavement Benefits.

3.9 Child Benefit recipients are already eligible for a Class 3 credit where their child is under the age of 12. Under this new provision, where they already have a qualifying year through paid contributions, they will be able to transfer entitlement to credits to another carer. This facility already exists between parents.

3.10 Applications will be accepted from specified adults who provide care for a child under the age of 12 and who are ordinarily resident in Northern Ireland. They will be made after the end of the relevant tax year, as it can only be established whether the Child Benefit recipient/primary carer has the necessary qualifying year once Her Majesty's Revenue & Customs' records are completed. There will not be any time limits for such applications.

4. Consultation

4.1 An informal consultation exercise was carried out from 22 October to 26 November 2010. It sought the views of stakeholders on which adult family members should be included on the list of those providing familial childcare and on the potential impacts of the withdrawal of starting credits, especially in relation to younger persons qualifying for Bereavement Benefits after the death of their spouse or civil partner.

4.2 Three responses were received. Respondents welcomed the introduction of the grandparent and familial credit for caring however, some raised concerns over the impact of the withdrawal of Starting Credits.

5. Equality Impact

The Department has conducted a screening exercise and has concluded the Regulations do not have any impact on equality of opportunity.

6. Regulatory Impact

The Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

Additional benefit costs for Northern Ireland will arise through future entitlements to State Pension and bereavement benefits. These will be met from the Annually Managed Expenditure (AME) budget.

8. Section 24 of the Northern Ireland Act 1998

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Regulations are not incompatible with any of the Convention rights, are not incompatible with Community law, do not discriminate against a person or class of person on the ground of religious belief or political opinion, and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

Not applicable.

10. Parity or Replicatory Measure

The provisions come into operation on 5 April 2011 at the same time as the corresponding Great Britain provisions – the National Insurance Contributions Credits (Miscellaneous Amendments) Regulations 2011. Parity of timing and substance is an integral part of the maintenance of

single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.