EXPLANATORY MEMORANDUM TO

THE TAX CREDITS (EXERCISE OF FUNCTIONS IN RELATION TO NORTHERN IRELAND AND NOTICES FOR RECOVERY OF TAX CREDIT OVERPAYMENTS) ORDER 2017

2017 No. 781

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 In line with the roll out of Universal Credit (UC) and the consequent abolition of Tax Credits, this Order does two things-

- It allows for recovery of Tax Credit overpayments by the Department for Communities (DfC) in Northern Ireland by continuing deduction from on-going benefits including UC and by Direct Earnings Attachment (DEA) where appropriate.
- It amends the requirements relating to Tax Credit debt notifications issued by Her Majesty's Revenue and Customs (HMRC) so that they will be able to notify customers, in appropriate cases, that their debt will be recovered by DWP in Great Britain or by DfC in Northern Ireland.

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 As part of the Welfare Reform programme, UC is replacing several benefits including Tax Credits. From September 2017, UC comes in to force in Northern Ireland. Currently, overpayments of Tax Credit can be recovered from on-going Tax Credit awards. The provision made by this Order secures future recovery and allows customers in Northern Ireland to continue to repay their overpayments through deductions from their on-going benefits including UC. It also ensures that notices issued by HMRC are compliant both with this and with the similar provision relating to recovery of Tax Credit debt by DWP in Great Britain. Legislation already allows DWP to recover TC debt by on-going deductions from benefit.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 Articles 3, 4, 5 and 8 apply to Northern Ireland. Articles 7 and 9 apply to Great Britain. Article 6 is of United Kingdom application.

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 The Welfare Reform (Northern Ireland) Order 2015 (2015 No. 2006 (N.I.1)) ("the 2015 Order") replaces several benefits, including Tax Credits, with UC in Northern Ireland. This will eventually have the effect of preventing HMRC from recovering Tax Credit debt from on-going awards of Tax Credits. The 2015 Order does allow for such recovery to continue by deduction from on-going payments of some benefits including UC. However, there will be occasions where a person stops receiving that benefit before the debt is fully recovered. To manage such cases, this Order allows for recovery by deduction from on-going payments of other benefits in Northern Ireland, and by Direct Earnings Attachment, where recovery by deduction from benefit is not possible and the debtor does not make an offer to repay.

7.2 Section 28 of the Tax Credits Act 2002 ("the 2002 Act") places a duty on HMRC to issue a notice to a Tax Credit debtor setting out how they intend to recover an overpayment. It came to DWP's attention that section 28 did not provide that such notices must mention possible recovery by DWP. This Order therefore makes changes to the relevant provisions of the 2002 Act to ensure that such notices issued by HMRC include, where appropriate, references to recovery of Tax Credit debt by DWP in GB and by DfC in Northern Ireland

Consolidation

7.3 Informal consolidated text of instruments is available to the public free of charge via the National Archives at www.legislation.gov.uk

8. Consultation outcome

8.1 Although there was no statutory requirement to do so, a draft of this Order was shared with the Social Security Advisory Committee who had no comments to make. A wider consultation was not undertaken as the provisions do not introduce any new burdens on customers but merely amend the methods of recovery of existing liabilities in line with the wider changes made under the welfare reform agenda.

9. Guidance

9.1 HMRC will send a notice to all customers whose debt is transferred from HMRC to DWP or DfC for recovery. This notice will explain what happens next and will signpost the customer to guidance and contact details for DWP and DfC.

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 activities that are undertaken by small businesses.

12. Monitoring & review

12.1 DWP/DfC and HMRC will jointly monitor this change in terms of amounts recovered and customer complaints. A review will be undertaken 3 years from the coming into force date of this order.

13. Contact

13.1 Alan Clark at the Department for Work and Pensions
Telephone: 0113 2529131 or email: alan.clark1@dwp.gsi.gov.uk
can answer any queries regarding the instrument.