EXPLANATORY MEMORANDUM RELATING TO THE

WORKING TAX CREDIT (ENTITLEMENT AND MAXIMUM RATE) (AMENDMENT) REGULATIONS 2004

2004 No. 1276

1. This explanatory memorandum has been prepared by the Commissioners of Inland Revenue and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 These regulations bring together a series of amendments to the rules about Working Tax Credit, which were announced in this year's Budget. The amendments relate to child care.

2.2 The list of eligible child care providers is extended, so that parents can claim the Working Tax Credit ("WTC") child care element if they use an approved foster carer. The care must be provided for a child who is *not* fostered with the foster carer. The foster carers who will be included are those approved under the relevant legislation in each of the four constituent part of the United Kingdom. This provision applies to England, Wales, Scotland and Northern Ireland.

2.3 The list of eligible child care providers will also be extended so that parents can claim the WTC child care element if they use an 'out of school hours' club, such as a breakfast club, run by a school on school premises or by a local authority for a child of any age up to 15 or, if disabled, 16. The new provision will apply to England, Wales and Northern Ireland but not Scotland. Childcare providers in Scotland for children under 16 must always be registered, so no new provision is required there.

2.4 These regulations amend the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (SI 2002/2005 as amended by SI 2003/701, 2003/2815 and SI 2004/762: "the principal Regulations").

2.5 Regulation 2 amends regulation 14 of the principal Regulations in two ways. First approved foster carers are included as eligible child care providers for the purposes of the WTC child care element. It makes clear that the care must be for a child who is not the foster carer's foster child. This provision applies to England, Wales, Scotland and Northern Ireland. The amending regulation also includes as eligible child care for the WTC child care element, "out of school hours" clubs which are run by a school on school premises or by a local authority for a child of any age to 15/16 if disabled. The "out of school hours" provision will apply to England, Wales and Northern Ireland.

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

3.1 None

4. Legislative Background

4.1 Section 12 of the Tax Credits Act 2002 provides that the prescribed manner of determination of the maximum rate of Working Tax Credit may include a child care element. Subsection (4) provides for the definition in regulations of "child care".

4.2 Regulation 14 of the principal Regulations provides for a child care element to be included in an award of working tax credit. It provides the definition of "child care" for the purposes of the child care element of WTC.

4.3 As mentioned above, regulation 14 is amended in exercise of the power contained in section 12(4)(b) to extend the categories of child care provider, so that a WTC claimant's costs in securing the provision of child care in these additional ways will lead to increased entitlement to tax credit.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. Policy background

6.1 Including foster carers in the list of eligible providers for the purposes of the WTC child care element provides another group of good quality child carers with already built in safeguards.

6.2 The provision relating to 'out of school hours' clubs is aimed at before and after school child care, such as breakfast clubs.

7. Impact

7.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8. Contact

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