

National Insurance credits changes – Government response to public consultation

November 2011

Contents

The Consultation 3

 Overview of consultation responses 4

 The Government’s responses 4

 General feedback..... 10

 Impact of the comments on the legislation 12

The Consultation

Between 15 October 2010 and 26 November 2010, the Department for Work and Pensions (DWP) undertook a public consultation exercise¹ seeking views to inform two National Insurance (NI) credits changes:

- introducing new NI credits from the 2011/12 tax year, for specified adults who care for a child under 12; and
- bringing to an end, awards of NI credits for the tax year in which people reach age 16 and the two following tax years – Starting Credits – to have effect from 6 April 2010.

The Government Code of Practice on Consultation recommends a minimum 12-week period for public consultations, unless there are good reasons for limiting it. In this case, this issue was of narrow interest; therefore, the Minister for Pensions agreed that a limited consultation was appropriate.

The public consultation was aimed at those representing:

- childcare providers; and
- bereaved people.

The consultation requested help in defining:

- who should be included in the list of adults who provide childcare – a sample question was: “should a former spouse or former civil partner continue to be treated as a step-parent and therefore be eligible to receive this new NI credit?”; and
- how we protect the position of people whose entitlement to Bereavement Benefits may be impacted as a result of the cessation of awards of Starting Credits.

¹ <http://www.dwp.gov.uk/consultations/2010/ni-credits-changes-consult.shtml>

Overview of consultation responses

The DWP received comprehensive comments in response from four organisations:

- Equality and Human Rights Commission;
- Grandparents Plus;
- Low Incomes Tax Reform Group; and
- TUC.

The DWP acknowledged and thanked all four organisations for their responses.

This document presents the main points made by respondents to the consultation and provides the Government's response to each of those points.

The Government's responses

1. NI credits for specified adults caring for a child under 12

Definition of "adult relative"

Summary of comments made

- The dominant view was that the definition of "adult relative" should be as wide as possible and consistent with the requirement for the child and the adult to be related by blood or parental relationship. This was supported by the following comments:
 - a child's closest family members may not always be those that a strict legal or biological interpretation of "family" would identify, and consequently, those providing unpaid care may not always have a straightforward legal or biological fit with closely prescribed definitions of their family status;
 - the definition should ensure that those providing childcare, and enabling parents to enter and remain in employment, do not face an increased risk of poverty in their retirement;
 - there is a precedent in recent legislation for broad definitions of "family" to be used in relation to entitlements that are linked to the provision of care – for example, the Flexible Working Regulations 2006 (see *the Work and Families Act 2006*);
 - the eligibility for Carer's Allowance is broader, based not on a carer's relationship to the adult they care for but on the nature of the care they provide (as well as there being residence and income conditions);
 - the fairest arrangement would be to ask the primary carers to define "family" carer themselves – in recognition of the multiple different ways in which families in the UK are formed, and the different cultural understandings of family across the country;

National Insurance credit changes – Government response to public consultation

- step-parents should be included in any definition, as well as step-grandparents and other step-relatives;
- cohabiting partners, from each relevant family relationship, should be included in the definition. Child Benefit is payable to cohabiting partners, so any policy which did not extend payment of these new NI credits to cohabiting partners across the wider extended family would be open to question;
- as the primary carer will have to authorise the transfer of these new NI credits, and they can only be paid in arrears, it is not anticipated that widening the categories of family carers eligible to receive these new NI credits would cause any additional administrative cost, as the same identify checks will have to be made to confirm a recipient is a grandparent as would be necessary to confirm that they are an aunt or a step-uncle;
- all family and friends carers providing care for a disabled child over the age of 12 should also be entitled to these new NI credits.

The Government's response

The Government has taken on board the comments made. Subsequently, the legislation provides that these NI credits will be awarded to applicants if, in relation to a child under 12, who they are caring for, they are a:

1. Mother or father;
2. Grandparent;
3. Great-grandparent;
4. Great-great-grandparent;
5. Brother or sister;
6. Aunt or uncle;
7. Husband or wife or former husband or wife of anyone in 1 to 6;
8. Civil partner or former civil partner of anyone in 1 to 6;
9. Partner or former partner of anyone in 1 to 8;
10. Son or daughter of anyone in 5 to 9;
11. In respect of the son or daughter of anyone in 6, that person's:
 - a. husband or wife or former husband or wife;
 - b. civil partner or former civil partner; or
 - c. partner or former partner.

5 and **6** include:

- a half-brother or half-sister;
- a step-brother or a step-sister; and
- an adopted brother or an adopted sister.

For **9** and **11c**, a partner is the other member of a couple consisting of:

- a man and woman who are not married to each other but are living together as husband and wife; or
- two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.

Administration of claims

Summary of comments made

- It was anticipated that particular difficulties could occur where different adults provided unpaid care to children over the course of the year. Additional verification and evidence may have to be provided on multiple occasions, causing further administrative time and costs for: parents; their children's informal carers; and the DWP.

The Government's response

The Government has tried to ensure that the verification and evidence requirements are kept to a minimum:

- The new NI credits must be applied for; they will not be awarded automatically.
- NI credits will be transferred from the Child Benefit recipient to an eligible applicant, as long as the person from who the NI credits are being transferred has a qualifying year and does not need the protection for their basic State Pension (or State Second Pension). This avoids any problem that such relatives might be treated more favourably than fathers.
- This also removes the need for supporting evidence and avoids burdensome verification arrangements because administrative data already held is used. Consequently, an application countersigned by the Child Benefit recipient is all that is required.
- Applications will need to be made retrospectively as it could only be seen whether the Child Benefit recipient had the necessary qualifying year once NI records for the tax year in question are complete and reconciled.
- The need for the Child Benefit recipient to have a qualifying year reduces any risk of double provision between the Child Benefit recipient and the applicant for the new credit. Where applications are made by more than one person, the applications will be reviewed before any NI credits are awarded.
- Awarding NI credits for the relevant weeks rather than complete years will reduce the volume of such "rival" applications. So, too, will the inherent need for retrospective applications; it will only be possible to determine whether NI credits may be transferred some time after the relevant tax year has ended. This results from the condition (as with transfers between parents) for the Child Benefit recipient to have a qualifying year by other means (NI credits or NI contributions). This means that patterns of childcare can be recorded and submitted with the application – for instance, a child may spend alternate weeks with their different grandmothers and at the end of the year, each grandmother can apply for the weeks they provided childcare. It is the responsibility of the counter signatory to ensure that they do not countersign applications for more than one person for the same time period.

Extend these new NI credits to include State Second Pension

Summary of comments made

- The request was made to extend these new NI credits beyond basic State Pension to include State Second Pension, so that grandparents are given the same entitlements as parents and carers.

The Government's response

Those eligible, including grandparents, can already obtain NI credits via the “Carers’ Credits” route and will get protection for the basic State Pension and additional State Pension, regardless of whether the Child Benefit recipient needs their own protection from NI credits.

Consider other transferable NI credits

Summary of comments made

- It was suggested that other situations should be considered as eligible for transferable NI credits, for example, kinship care.

The Government's response

Kinship carers will be covered by these new NI credits.

Effect of abolition of Child Benefit

Summary of comments made

- Concern was expressed that the abolition of Child Benefit may make it difficult to claim this new NI credit. It was felt that the NI credit transfer should be linked not to the **receipt** of Child Benefit, but to the fact that the parent would be **eligible** for Child Benefit but for the presence in their household of a higher-rate taxpayer, to take into account proposed Child Benefit changes.

The Government's response

There are no plans to abolish Child Benefit. The Government recognises the concerns expressed about the effect of the withdrawal of Child Benefit from families containing a higher rate taxpayer. This withdrawal of Child Benefit is not expected to affect National Insurance credits for state pension entitlement.

Raising awareness of these new NI credits

Summary of comments made

- The importance of raising awareness of the new NI credit was stressed to ensure it is claimed. It was stated that the DWP and HMRC should work to review existing guidance on NI credits and how help is provided for claimants, liaising with the voluntary and community sector.

The Government's response

The Government continually reviews and updates the information it produces. A “factsheet” will be produced for this new NI credit and will be made available through Directgov.

2. Starting Credits

Effect of withdrawing Starting Credits

Summary of comments made

- Concern was expressed about whether the withdrawal of Starting Credits has any negative impact upon:
 - State Pension entitlements; and
 - access to Bereavement Benefits for young people who do not have adequate NI contributions records.
- The DWP was encouraged to work closely with support networks for young carers to ensure no-one loses out where Starting Credits would previously have been granted automatically.

The Government's response

In the consultation document on these proposed National Insurance credit changes, the Government recognised that a small number of young people, currently below age 18, might be adversely affected by the 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. Following comments received, in order to protect the position of bereaved people who would be affected in this way, Starting Credits will continue to be awarded for the purposes of Widowed Parent's Allowance and Bereavement Allowance only.

Bereavement Benefit reform

Summary of comments made

- The DWP was encouraged to consider reform options for the entitlement conditions to Bereavement Benefits by possibly:
 - reducing the proportion of working life for which NI credits must have been paid, by an amount that would offset the withdrawal of Starting Credits; or
 - introducing additional provisions to reduce the proportion of working years necessary to ensure entitlement to Bereavement Benefits for people aged, for example, under 35 years old.

The Government's response

As noted above, the Government has ensured that Starting Credits will remain in place for the purposes of Widowed Parent's Allowance and Bereavement Allowance. As such, there is now no need to offset any negative effects that the withdrawal of Starting Credits would have caused.

The suggestion to reduce the proportion of working years required for entitlement to Bereavement Benefits for younger people has been noted. As is the case for all benefits, Bereavement Benefits are kept under constant review and any such future changes would be considered within the context of wider welfare reform and the Government's commitment to create a 21st century welfare system.

NI number process

Summary of comments made

- Her Majesty's Revenue & Customs (HMRC) was asked to revisit the process of issuing NI numbers to young people, working closely with stakeholders to improve it.

The Government's response

HMRC has no plans to revisit the process of issuing NI numbers to young people, which will not be affected by the changes to NI credits.

General feedback

Some respondents took the opportunity to raise wider concerns around the State Pension and NI arrangements:

- urgently publishing the impact assessment relating to the NI changes in the consultation;
- reviewing NI policy including NI credits;
- early consultation on the proposals to increase the State Pension age to 66 by 2020;
- reducing the confusion caused by State Pension changes; and
- full recognition of grand-parenting in any new State Pension system.

Although this was not the focus of the consultation, the Government's position on these issues is set out below.

Urgently publishing the impact assessments relating to the NI changes in the consultation

The Equality Impact Assessment relating to the NI changes is included with this response.

Reviewing NI policy including NI credits

The Government believes that integrating the operation of income tax and National Insurance contributions can remove distortions, reduce burdens on business and improve fairness. However, it recognises that any change will be complex and involve a wide range of policy and implementation issues. Therefore, the Government has published a call for evidence on the burdens caused by the existing systems (http://www.hm-treasury.gov.uk/consult_income_tax_national_insurance_contributions.htm). The results of this will be published in due course.

Early consultation on the proposals to increase the State Pension age to 66 by 2020

The Government acted quickly following its announcement in the Budget of the intention to review the increase in State Pension age; a Call for Evidence was published on 24 June 2010.

The Government wrote to a large number of pensions and older people stakeholder organisations upon publication, encouraging responses. The Call for Evidence closed on 6 August 2010. Responses were received from 352 responses individuals and 46 organisations – the full response to the review was published on 3 November 2010².

² <http://www.dwp.gov.uk/consultations/2010/spa-66-review.shtml>

**Reducing the confusion caused by State Pension changes;
Recognition of grand-parenting in any new State Pension system**

The Government is currently examining all aspects of the State Pension system to identify options that could lead to a more simple and straightforward system but final decisions have not yet been made.

The Government wants to build on the work it has already started to deliver by simplifying the State Pension system. The aim is a simple, decent State Pension for future pensioners, which is easy to understand, efficient to deliver, affordable and provides a firm foundation for workplace saving.

Impact of the comments on the legislation

The removal of Starting Credits may have affected a small number of young people, currently below age 18. 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. 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 NI contributions or NI credits. Where young people are concerned, Starting Credits may have a significant effect on entitlement.

Following comments received, in order to protect the position of bereaved people who would be affected in this way, Starting Credits will continue to be awarded for the purposes of Widowed Parent's Allowance and Bereavement Allowance only.

The National Insurance Contributions Credits (Miscellaneous Amendments) Regulations 2011 were laid before Parliament on 14 March 2011. The **Regulations** and the accompanying **Explanatory Memorandum** can be found at:

<http://www.legislation.gov.uk/uksi/2011/709/introduction/made>

The **Equality Impact Assessment** is available on the DWP website:

<http://www.dwp.gov.uk/docs/eia-ni-credits-changes.pdf>