



**National Insurance credits changes**  
**Response to Department for Work and Pensions consultative document**

**1. Executive summary and recommendations**

- 1.1. The state pension system has changed a great deal in recent times and continues to do so. At the same time NI credits have altered and we feel that the result is likely to be confusion amongst the general public. With further changes mooted, such as the withdrawal of child benefit from households containing a higher rate taxpayer (presumably impacting on entitlement to NI credits), things seem unlikely to become any simpler or more readily understandable in the immediate future.
- 1.2. This response, whilst welcoming the move to make NI credits transferable where relatives look after young children, therefore advocates a wider review of the NI credits system and its links to benefits entitlement, including state pension accrual. This is needed to ensure that the system is delivering policy objectives. The current piecemeal programme of change seems ill-considered (the back-dated removal of starting credits to 6 April 2010 seemingly an after-thought), with short consultation periods and lack of up-front impact assessment.
- 1.3. We are particularly concerned that complex interactions between different types of NI credit could lead to claimants losing out if there is inadequate guidance and sources of advice.
- 1.4. In general, we therefore recommend:
  - early consultation on the proposals to increase the state pension age to 66 by 2020 for both men and women (para 2.5.3);
  - urgent publication of impact assessments, covering both equality issues and the potential impacts on the voluntary and community sector, in respect of the current consultation (para 2.5.9).
- 1.5. As regards the welcome introduction of transferable NI credit transfers to 'relatives' who look after young children of working parents, we recommend that:

- a wide definition of persons to whom credits can be transferred is drawn up (para 3.1.2);
- other situations should be considered as eligible for transferable credits, for example kinship care (para 3.2.3);
- 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 (para 3.3.3);
- DWP and HMRC should work closely together to review existing guidance on NI credits and how help is provided for claimants, liaising with the voluntary and community sector (para 3.4.4).

1.6. And finally, on the issue of starting credits for 16 to 18 year olds, we recommend that:

- a wider consultation on future NI policy is held, taking into account that the accrual period for a full basic state pension has been shortened yet NI contributions continue to be paid up to an ever-increasing state retirement age (para 4.1.2);
- further thought should be given to international issues, taking into account potential impacts on low-income migrants both to and from the UK (para 4.1.3);
- DWP should work closely with support networks for young carers to ensure no-one loses out where starting credits would, in the past, have been granted automatically (para 4.2.1);
- the process of issuing NINOs to young people is revisited and that HMRC work closely with stakeholders to improve it (para 4.2.2).

1.7. We would be pleased to participate in following up these recommendations.

## 2. Introduction

### 2.1. *About us*

2.1.1. The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes.

2.1.2. The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

## 2.2. ***Our interest in this consultation***

- 2.2.1. Our response to this consultation looks at the cross-departmental interactions for claimants of National Insurance (NI) credits where HM Revenue and Customs (HMRC) and the Department for Work and Pensions (DWP) will need to work closely together.

## 2.3. ***The issues under consultation***

- 2.3.1. The two issues under consultation are:

- 1) Providing new NI credits for grandparents or certain other ‘relatives’ for children under 12 years old where the child benefit claimant goes out to work; and
- 2) Withdrawing starting credits from 6 April 2010 for 16 to 18 year olds.

- 2.4. After commenting on the consultation process and offering some general comments, we address each of these in turn, under headings 3 and 4 below.

## 2.5. ***The consultation process and general comments***

- 2.5.1. We have a number of comments to make on the consultation process itself.

### *Piecemeal change versus considering the bigger picture*

- 2.5.2. First, there have been many changes to the state pension system from 6 April 2010 and related alterations to the accrual of contributions and credits. Now two more changes are under consultation, one of which is to be brought in with retrospective effect to 6 April 2010. We believe that there is a good deal of confusion amongst the general public as to their likely future entitlements (even more so than perhaps there was already) and such piecemeal delivery of changes can only add to that confusion.

- 2.5.3. We therefore recommend early consultation on the announcement in the recent Comprehensive Spending Review that the Government is looking at increasing the state pension age to 66 by 2020 for both men and women. This would be preferable to considering further consequential changes after the event, as with this consultation.

### *Anticipating future changes*

- 2.5.4. As the Government has announced its intention to withdraw child benefit (CB) from households with a higher rate taxpayer, early thought needs to be given to the potential impact of this future change on the consultation document’s proposals for other family members providing childcare. For example a single mother of a small child earning a higher rate salary will lose her CB, but she might only be able to earn such a salary due to the child’s grandmother providing childcare. Yet because the child’s mother (being a higher-rate taxpayer) can no longer claim CB, the grandmother could presumably lose the chance to claim NI credits – a double blow to the family. We comment on this further below.

*Timescale allowed*

- 2.5.5. We are surprised by the comment that this consultation is of ‘relatively limited interest’ (page 3) and therefore a short consultation period is appropriate. No evidence is given supporting this assertion and indeed we think that the proposals affect a much larger number of people than is implied. In the context of the first proposed change, there must be significant numbers of children looked after by other family members; and the proposal to withdraw starting credits could potentially affect anyone who is yet to reach age 16 and enter working life. We also raise further questions as to potential international impacts on removal of starting credits (para 4.1.3 below).
- 2.5.6. Some analysis of data and numbers of those potentially affected would therefore have been helpful.

*Impact assessment*

- 2.5.7. The document goes on to say (page 4) that no impact assessment has been prepared. Yet it does not mention the potential impact on the voluntary and community sector, for example on advice agencies in helping families consider their overall NI credits situation (on which we comment further below).
- 2.5.8. We also think that an equality impact assessment (EIA) should have been published at this stage, at least in draft, rather than being deferred until publication of draft legislation, as it is imperative to identify the potential impacts at an early stage and, if there are adverse consequences of policy change, to consider mitigation strategies. Failure to do so runs counter to the Equality and Human Rights Commission’s guidance on EIAs<sup>1</sup>, which states (backed up by case law<sup>2</sup>):

*‘EIAs should be an integral part of policy development and review, not a one- off or separate exercise.’*

- 2.5.9. We therefore recommend that an EIA is urgently published, in advance of drafting the legislation. We also recommend that an assessment of the potential impacts on the voluntary and community sector is carried out.

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<sup>1</sup> See [http://www.equalityhumanrights.com/uploaded\\_files/eiaguidance.pdf](http://www.equalityhumanrights.com/uploaded_files/eiaguidance.pdf)

<sup>2</sup> In the case of R (Kaur and Shah) v London Borough of Ealing, the High Court ruled that Ealing Council's proposals to move away from funding particular organisations such as Southall Black Sisters towards commissioning services following a competitive bidding exercise was unlawful. While Ealing Council did carry out an EIA on its proposals, it did so belatedly and continued with its original plans despite concerns expressed by Southall Black Sisters that the move would have a negative impact on women from ethnic minority backgrounds. In an oral judgement, Lord Justice Moses reiterated the importance of undertaking an equality impact assessment and also the importance of carrying out an impact assessment before policy formulation.

### 3. **NI credits for ‘relatives’**

#### 3.1. ***Who should be considered a ‘relative’***

3.1.1. We welcome the introduction of transferable NI credits proposed in the consultation document. If the purpose of allowing a transfer of NI credits between carers of children under the age of 12 is to enable one of them to go out to work, then the categories of ‘relative’ to whom credits should be transferable ought to be as diverse as is consistent with the underlying policy. Families come in various shapes and sizes with almost infinite possibilities as to the relationships between them, whether by blood, marriage/civil partnership or indeed common law family situations.

3.1.2. We therefore recommend a wide definition of persons to whom credits can be transferred.

#### 3.2. ***Other situations where a transfer of credits should be considered***

3.2.1. We feel that transferable NI credits should also be introduced in other situations than those described in the consultation. If, for example, you have a grandparent (or other relative - perhaps an older sibling, or aunt/uncle) looking after a child who cannot live at home for some reason, it would be useful for them to get NI credits whether or not the natural parent went out to work, and whether or not the grandparent claimed child benefit. After all, there might be difficult circumstances to take into account, such as the natural parent blocking transfer of the child benefit because he or she needs it to fund drug/alcohol addiction.

3.2.2. Indeed, credits are available in situations where children are formally fostered, so why not in such situations where kinship care is provided?

3.2.3. We recommend that the CB claimant going out to work should not be the only situation considered when drawing up this legislation.

#### 3.3. ***Changes to child benefit***

3.3.1. The Government recently announced that child benefit would be withdrawn from households in which there is a higher rate taxpayer. One of the knock-on effects we envisage from this is that a non-working parent who stays at home to look after children under 12 may lose NI credits if their partner is a higher rate taxpayer.

3.3.2. It follows that in households where both parents work and where there is a higher rate taxpayer (or in single-parent families where that person is a higher rate taxpayer) transferability of NI credit to a grandparent would similarly be lost as a consequence of CB being lost. This would seem counter-intuitive to the policy intention in the current consultation as the grandparent is enabling others to work through sacrificing their own (perhaps lower) earnings capability in favour of looking after grandchildren.

3.3.3. We therefore recommend that NI credits remain available to transfer to relatives caring for children under 12 even where, in future, CB is withdrawn due to the household including a higher rate taxpayer. Put another way, 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.

### 3.4. ***Guidance and interaction with other NI credits***

- 3.4.1. Page 14 of the consultation lists the various circumstances in which NI credits can apply. These can be immensely confusing and we have seen cases where people have lost out – for example, couples claiming working tax credit (WTC) who did not appreciate (due to lack of joined up advice from DWP and HMRC) that their NI credits entitlement could be affected depending on to whom the WTC is actually paid.
- 3.4.2. Therefore, clear guidance is needed for families where the transferability of NI credits will depend on which member of a couple claims or actually receives the CB, or other qualifying benefits which might entitle them to NI credits.
- 3.4.3. We would not want to see cases where a transfer of NI credits is rejected on a technicality because no-one advised claimants up-front where it might be important who claims or receives benefit. This is particularly as the document notes that claims to transfer will have to be made after the year end, so there is likely to be some considerable delay in between claiming benefits and then claiming to transfer NI credits.
- 3.4.4. We therefore recommend that DWP and HMRC work closely together to review existing guidance and how help is provided for claimants, liaising with the third sector. We would be pleased to participate in the development of new guidance.

## 4. **Removal of starting credits**

### 4.1. ***Wider impact and policy issues***

- 4.1.1. Whilst we understand the rationale for this proposal, it does raise wider questions as to payment of NI contributions in general. A person's working life is likely to extend well beyond the 30 years now needed to entitle them to the full basic state pension, yet NI contributions continue to be paid up to an ever-increasing state retirement age.
- 4.1.2. We therefore recommend a wider consultation on future NI policy. Indeed, the recent Mirrlees review suggests a possible merger of NI with income tax to reduce administration and compliance costs and make the system as a whole more transparent<sup>1</sup>.
- 4.1.3. We are also surprised not to see in the consultation greater consideration of international aspects. Large numbers of low-income people move between countries, perhaps more so than ever before. We recommend therefore that further thought should be given to these issues, including the following example questions:

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<sup>1</sup> See para 20.2.1, *Tax by Design*, Institute for Fiscal Studies  
<http://www.ifs.org.uk/mirrleesreview/pamphlet.pdf>

- What is the impact upon someone who leaves the UK for residence abroad after spending all their formative and early work years in the UK?
- What other countries have similar rules and how would this fit for someone migrating into this country and unable to work for 30 years within our system?
- What effect does this have on reciprocal agreements?

#### 4.2. ***Guidance and interaction with other NI credits***

- 4.2.1. As in section 3 above, we would again point out that clear guidance will be needed for young people as to their entitlement to NI credits. For example, there will be young carers to consider. If they are getting carer's allowance, we understand that NI credits are granted automatically, but in some cases credits have to be claimed. We therefore recommend that DWP work closely with support networks for young carers to ensure no-one loses out where starting credits would, in the past, have been granted automatically.
- 4.2.2. Moreover, it would be helpful to consider how young people's understanding of the NI system could be generally improved. HMRC recently announced that NI 'number cards' would no longer be issued, but replaced by a letter<sup>1</sup>. We therefore recommend that the process of issuing NINOs to young people is revisited and that HMRC work closely with stakeholders to improve it. We would be pleased to be involved in this review.

LITRG

25 November 2010

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<sup>1</sup> See <http://www.hmrc.gov.uk/news/news-041010a.htm>