

## **Explanatory Memorandum - Tax Credits (Approval of Childcare Providers) (Wales) (Amendment) Scheme 2008**

This Explanatory Memorandum has been prepared by the Department for Children, Education, Lifelong Learning and Skills and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

- (i) **Description** - This Statutory Instrument amends the Tax Credits Scheme by substituting for existing references to the Tribunal established under section 9 of the Protection of Children Act 1999 (“the Tribunal”) references to the First- tier Tribunal to be established under the Tribunals, Courts and Enforcement Act 2007.
- (ii) **Matters of special interest to the Subordinate Legislation Committee** – As required by section 8 of the Tribunals and Inquiries Act 1992 we have consulted the Administrative Justice & Tribunals Council. They have agreed the proposed amendments to the Tax Credits Scheme.
- (iii) **Legislative Background** – The Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007 was made under sections 12(5), (7) and (8) and 65(3) and (9) of the Tax Credits Act 2002. In accordance with section 14 of the Interpretation Act 1978 these powers are also being used to make the necessary amendments to the Tax Credits Scheme set out in the Statutory Instrument.
- (iv) **Purpose and intended effect of the legislation** – The 2007 Scheme provides for the approval of child care providers for the purposes of section 12(5) of the Tax Credits Act 2002. In particular, it provides for the operation of a system for the determination of applications for approval and a right to appeal against a refusal or withdrawal of approval.

Under the 2007 Scheme appeals were made to the Tribunal established by section 9 of the Protection of Children Act 1999 (“the Tribunal”) and such appeals were dealt with in accordance with the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002. The appeal provisions are set out in article 11 of the 2007 Scheme.

Pursuant to the Tribunals, Courts and Enforcement Act 2007 the existing functions of the Tribunal have been transferred to the First-tier Tribunal, which shall be governed by new Tribunal Procedure Rules made pursuant to section 22 of the 2007 Act.

This instrument amends the 2007 Scheme to take account of these changes. It provides that any reference to the “Tribunal” in the 2007 Scheme shall be replaced by a reference to the “First-tier Tribunal” and

inserts into article 2 of the 2007 Scheme a definition of “the First-tier Tribunal”.

It also amends article 11 of the 2007 Scheme by inserting a new paragraph (2) which applies the Tribunal Procedure Rules to any appeal under the 2007 Scheme and omits paragraphs (3) and (4).

The Statutory Instrument is made under sections 12(5), (7) and (8) and 65(3) and (9) of the Tax Credits Act 2002.

- (v) **Implementation** – This instrument follows the negative resolution procedure, and will come into force on 03 November 2008.
- (vi) **Consultation** – Given that this is a technical change to the Tax Credits Scheme necessitated by changes in primary legislation, public consultation is not considered appropriate. The Administrative Justice and Tribunals Council has been consulted.
- (VII) **Regulatory Impact Assessment** – a Regulatory Impact Assessment has not been prepared as this legislation simply updates existing legislation to account for technical changes required as a result of the Tribunals Courts and Enforcement Act 2007.