

**EXPLANATORY MEMORANDUM TO**  
**THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (CHILD BENEFIT**  
**DISREGARD AND CHILD CARE CHARGES) REGULATIONS 2009**

**2009 No. 1848**

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

**2. Purpose of this Instrument**

2.1. In the 2008 Pre-Budget Report (Chapter 4 “*Fairness and Opportunity for All*”), the Chancellor announced that Child Benefit would be disregarded in the calculation of Housing Benefit and Council Tax Benefit. The intention is to boost the incomes of many of the lowest paid families, including those who are parents of children in poverty.

2.2. This instrument contains amendments to regulations to fully disregard Child Benefit in the calculation of Housing Benefit and Council Tax Benefit from November 2009.

2.3. At present Child Benefit income for working age customers is taken into account in full, but the Chancellor made a commitment in the 2008 Pre-Budget Report that it should be disregarded in full in order to lift 150,000 children out of poverty whilst improve work incentives for many of the lowest paid families and boosting their incomes.

2.4. The instrument also makes amendments to reflect the changes to registration requirements for child minders in England made by the Childcare Act 2006. Relevant childcare charges can be deducted from income for Housing Benefit and Council Tax Benefit purposes. The legislative references in the Housing Benefit and Council Tax Benefit regulations need to be amended to refer to the relevant provisions in the Childcare Act so that childcare charges applicable in England can be deducted.

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

3.1. None.

**4. Legislative Context**

4.1. This instrument amends the Housing Benefit Regulations 2006 and the Council Tax Benefit Regulations 2006 so that payments of Child Benefit are disregarded in the calculation of those benefits for people of working age. The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, which provide for the calculation of those benefits for pensioners, already have a full disregard of Child Benefit payments.

4.2. The instrument also makes amendments to provisions in Housing Benefit and Council Tax Benefit so that childcare charges applicable in England can be deducted following the changes to registration requirements for child minders made by the Childcare Act 2006.

## **5. Territorial Extent and Application**

5.1. This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

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. This instrument is needed to allow Child Benefit for working age Housing Benefit and Council Tax Benefit customers to be fully disregarded in line with the existing arrangements for pensioners.

7.2. As with the other income-related benefits (Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance and State Pension Credit) Housing Benefit and Council Tax Benefit are intended to bring any income a person has up to a set level. In Housing Benefit and Council Tax Benefit this level is worked out according to individual circumstances, including family size. Since this level includes provision for children, payment of Child Benefit has always been taken into account in the assessment of entitlement for working age people.

7.3. In the 2008 Pre-Budget Report (Chapter 4 "*Fairness and Opportunity for All*"), the Chancellor announced that Child Benefit would be disregarded in the calculation of Housing Benefit and Council Tax Benefit. The intention is to boost the incomes of many of the lowest paid families, including those who are parents of children in poverty. It would make HB/CTB more generous for non-passported working age claimants in a way which would be readily understood. It allows working age people (who are more likely to have dependent children than pension age claimants) to keep more of their income as they would have to pay less rent/council tax.

7.4. The instrument also tidies up the provisions in Housing Benefit and Council Tax Benefit for all customers in respect of those childcare costs which can be disregarded when calculating a person's earnings. Application of the disregard depends upon the care provider being registered under relevant legislation. However, two registers were established under the Childcare Act 2006 including provision for voluntary registration. The conditions for registration under Part 10A of the Children Act 1989 now apply to Wales only and the current instrument provides an equivalent reference to the provisions relating to England in the Childcare Act 2006. The existing references to Scottish legislation are still valid.

- ***Consolidation***

7.5. There are no plans to consolidate the existing regulations once this instrument has been laid; this is because the Blue Volumes provide this function and will eventually incorporate this instrument into the existing regulations. They are held on line and are available to the public free of charge. The Housing Benefit and Council Tax Benefit regulations were consolidated in 2006. The Blue Volumes are located at:

[http://intranet/1/ig/acileeds/law/law%20relating%20to%20social%20security%20\(blue%20volumes\)/index.asp](http://intranet/1/ig/acileeds/law/law%20relating%20to%20social%20security%20(blue%20volumes)/index.asp)

## **8. Consultation outcome**

8.1. As the child benefit disregard measure was announced by the Chancellor in the Pre Budget Report 2008 and is a wholly beneficial measure a full public consultation was deemed unnecessary.

8.2. The instrument was presented to the Social Security Advisory Committee under the provisions of s.173 of the Social Security Administration Act 1992. The Committee decided that it did not require the regulations to be formally referred to it and, accordingly, it did not conduct a public consultation exercise upon the proposals.

8.3. In response to a question raised by the Committee, officials have confirmed that while there are currently no plans to run a specific take-up exercise or additional publicity alongside the introduction of the full disregard of Child Benefit we will seek out opportunities to include material in activity generated in response to Sir Trevor Chinn's Task Force report. Budget 2009 confirmed that the Government will work to join up the delivery of financial support and help local authorities in improving take up of tax credits and benefits.

8.4. The Government's Take Up Taskforce was set up in January 2009 to identify the best practises of local authorities and their partners in tackling child poverty by supporting parents to take up the tax credits and benefits to which they are entitled. The Taskforce, chaired by Sir Trevor Chinn and made up of 15 representatives from local authorities and key voluntary organisations, has produced a report which was published on 12 June 2009. The report identifies principles of effective service delivery that local services should adopt to increase take up, and sets out the actions local authorities and partners should take to achieve them. Good practice case studies from around the country are included in the report to illustrate the work that is already being done by some of the best local authorities and partner organisations around the country, and the impact it is having.

8.5. The local authority associations were also consulted on the proposed changes. The associations welcomed the regulations, subject to some concerns about the impact on local authority workloads and reimbursement of their additional costs. In response, officials explained that additional money will not be made available to local authorities over and above that being distributed in response to the economic downturn. Officials wrote to the Local Government Association on 6 April 2009, explaining that the subsidy regime is, essentially, a broad-brush mechanism that was never intended to be fine tuned in a way that would reflect every shift in the caseload, whether up or down. Furthermore, although processing claims from those newly entitled to HB/CTB would have a substantial cost, this would eventually be covered by the administration subsidy provided to local authorities in response to their increased workload.

## **9. Guidance**

9.1. Guidance will be provided in the normal way to local authorities who administer Housing Benefit and Council Tax Benefit and who will be responsible for ensuring that customers of those benefits are aware of the changes.

## **10. Impact**

10.1. The impact on business, charities and voluntary bodies is negligible. Some costs may be associated with publicity seeking to draw attention to this change.

10.2. We estimate that the impact on the public sector of the measures in this instrument is that local authority administrative staff will need to reassess the cases of 200,000 current beneficiaries of Housing Benefit and Council Tax Benefit who will benefit from this change when the regulations come into effect. In the usual way, local authorities will arrange with their software suppliers to re-programme their computers and a one-off re-assessment will be run in November 2009, with payments adjusted accordingly. The cost of this is not likely to be significant.

10.3. In addition, over time, there is a potential increase in the customer caseload of around 100,000 in Housing Benefit and 200,000 in Council Tax Benefit, based on current benefit take-up rates. New claims to benefit will need to be made by those who become newly entitled by the introduction of the disregard. Local authorities are expected to meet the costs of handling these cases from their existing resources. Allocations to individual local authorities from the administration subsidy grant provided by the Department take into account their relative workloads.

10.4. A full Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1. The legislation does not apply to small business.

## **12. Monitoring and review**

12.1. The impact of the changes in respect of the disregard of Child Benefit on the numbers and characteristics of those affected will be monitored through the routine collection, publication and review of administrative data.

12.2. There are currently no plans to run a specific take-up exercise or additional publicity in Housing Benefit and Council Tax Benefit in response to the full disregard of Child Benefit from November 2009.

## **13. Contact**

Richard Metcalfe at the Department for Work and Pensions Tel.020 7449 5335 or email: [richard.metcalfe@dwp.gsi.gov.uk](mailto:richard.metcalfe@dwp.gsi.gov.uk) can answer any queries regarding this instrument.