

EXPLANATORY MEMORANDUM TO
THE CHILD BENEFIT (MISCELLANEOUS AMENDMENTS) REGULATIONS 2025
2025 No. 818

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before Parliament by Command of His Majesty.

2. Declaration

- 2.1 The Rt Hon Darren Jones MP, Chief Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 James Knipe, Deputy Director for Welfare Policy at HMRC, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Catherine Finney at HMRC Telephone: 03000 516 983 or email: catherine.finney@hmrc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The instrument removes the requirement that education being provided to a young person outside a school or college must have begun before the young person turned 16 for Child Benefit to be paid.
- 4.2 The instrument also amends the definition of "full-time education" (which currently means in excess of 12 hours per week). Where the education being provided is for 12 hours or less a week due to illness or disability, that will be considered "full-time education" for Child Benefit purposes. This will allow parents and guardians of a young person who cannot participate in non-advanced education for more than 12 hours a week due to an illness or disability to be entitled to Child Benefit, where currently they are not.

Where does the legislation extend to, and apply?

- 4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

- 5.1 The instrument removes the requirement that where education is provided outside a school or college (i.e. elsewhere), that education must have begun before the young person turned 16 for Child Benefit to be paid. It also removes the associated regulations which provided exceptions to this rule for those participating in “16-19 study programmes”, or where the young person had a statement of special educational needs and the Local Authority has assessed the education provided outside a school or college as being suitable. This will give young people more choice about the location of their education post-16.
- 5.2 The instrument expands the definition of “full-time education” for Child Benefit purposes. Where a young person is in non-advanced education of 12 hours or less a week due to an illness or disability, this will be treated as “full-time education”. This will allow Child Benefit support to continue to be paid to the parent(s) or guardian(s) of a young person who is participating in non-advanced education to the greatest extent possible due to their health issues or disability but for whom this is 12 hours or less a week.

What was the previous policy, how is this different?

- 5.3 Child Benefit has no education or training conditions until the 31st August following a child’s 16th birthday. Entitlement can continue up to a maximum age of 20 if a young person is in “full-time education” that is not advanced education or is in approved training.
- 5.4 “Full-time education” for Child Benefit purposes means education where the average time spent during term time in receiving tuition, engaging in practical work, supervised study, or taking examinations exceeds 12 hours per week.
- 5.5 Where education is provided to a young person outside a school or college, that education must have begun before the young person turned 16 for Child Benefit to be paid. There are two exceptions to this rule – 1) where the young person is participating in a “16-19 study programme”; and 2) where the young person has a statement of special educational needs and the Local Authority has assessed the education provided outside a school or college as being suitable.
- 5.6 In 2014, HMRC amended Child Benefit legislation to align with changes made by the Department for Education (DfE) on the age of participation in education in England. The intention of the change was to ensure parents and guardians responsible for a young person participating in a “16-19 study programme” in England could be entitled to Child Benefit.¹ This change was necessary as “16-19 study programmes” include activities not necessarily undertaken at a school or college, and this education starts after the young person turns 16.
- 5.7 However, the 2014 change unintentionally removed the requirement that young persons being educated in England outside a school or college, where a Local Authority has assessed the education being provided as suitable, must study for more than 12 hours a week. As it was unintentional, HMRC did not pay Child Benefit in these circumstances.

¹ Explanatory Memorandum to the Child Benefit (General) and Child Tax Credit (Amendment) Regulations 2014: https://www.legislation.gov.uk/ukxi/2014/1231/pdfs/ukxiem_20141231_en.pdf

- 5.8 HMRC identified this unintentional consequence through an internal review and will be conducting a correction exercise to ensure anyone in this cohort receives the money to which they are entitled. The affected number of families affected is estimated to be approximately 500 in total.
- 5.9 Removing the unintended consequence so that *all* young persons must study for more than 12 hours a week would disadvantage young persons who cannot meet this condition due to an illness or disability.
- 5.10 The instrument therefore expands the definition of “full-time education” in Child Benefit so that a young person anywhere in the UK can be treated as being in “full-time education” where they are participating in non-advanced education for 12 hours or less a week due to an illness or disability.

6. Legislative and Legal Context

How has the law changed?

- 6.1 Regulation 1(3) of the Child Benefit (General) Regulations 2006 defines “full-time education” for the purposes of Child Benefit.
- 6.2 This instrument amends regulation 1(3) of the Child Benefit (General) Regulations 2006 to expand the definition of “full-time education” to include the text – exceeds 12 hours per week; or where the individual suffers from an illness or mental or physical disability, such hours as are appropriate for that individual’s personal circumstances.
- 6.3 Regulation 3(3)(a) of the Child Benefit (General) Regulations 2006 sets out that education provided outside a school or college must have been provided to the young person before they were 16 for Child Benefit to be paid. Regulation 3(2)(ab) of the Child Benefit (General) Regulations 2006 sets out an exception to that rule where the young person is participating in a “16-19 study programme”. Regulation 3(3)(b) of the Child Benefit (General) Regulations 2006 sets out the other exception to that rule where the young person has a statement of special educational needs and the Local Authority has assessed the education as being suitable. Regulation 3(5) of the Child Benefit (General) Regulations 2006 defines a statement of special educational needs.
- 6.4 This instrument removes Regulations 3(3)(a), 3(2)(ab), 3(3)(b), and 3(5) of the Child Benefit (General) Regulations 2006 which create the rule that where education is provided outside a school or college (i.e. elsewhere), that education must have begun before the young person turned 16 for Child Benefit to be paid. As the rule will no longer exist the exceptions to it at 3(2)(ab) and 3(3)(b) and 3(5) are no longer required.

Why was this approach taken to change the law?

- 6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 HMRC consulted the Social Security Advisory Committee (SSAC) ahead of this instrument being laid. The SSAC is an independent body sponsored by the Department for Work and Pensions that provides impartial advice on social security and related matters. Under a Memorandum of understanding with HMRC, the SSAC scrutinises the secondary legislation that underpins Child Benefit.

- 7.2 The SSAC did not raise any objection to the changes the instrument makes and did not require HMRC officials to attend the SSAC meeting on 25 June 2025.

8. Applicable Guidance

- 8.1 Guidance for Child Benefit is available through the Child Benefit helpline 0300 200 3100 and via the gov.uk website.²

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because no significant impact is foreseen.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the legislation will only affect individuals.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation is that HMRC will monitor the impact of these changes as part of its wider routine monitoring of the Child Benefit scheme.
- 10.2 The instrument does not include a statutory review clause as it does not make regulatory provision in respect of a business.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

- 12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).

² Guidance for Child Benefit: <https://www.gov.uk/government/collections/child-benefit-detailed-information>