

EXPLANATORY MEMORANDUM

THE CHILD BENEFIT (GENERAL) REGULATIONS 2006

2006 No. 223

1. This Explanatory Memorandum has been prepared by HM Revenue and Customs (HMRC) and is to be laid before Parliament by command of Her Majesty.

2. Description

These Regulations replace the Child Benefit (General) Regulations 2003, which would in any event have required substantial amendment as a consequence of the Child Benefit Act 2005. The Regulations provide the conditions under which a person will be entitled to child benefit in respect of a child or qualifying young person, make other changes in the light of the Child Benefit Act 2005 and further align child benefit with child tax credit.

Other changes made are intended to provide a more logical structure to these Regulations

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

None, except as provided in the following paragraph.

4. Legislative Background

The Child Benefit Act 2005 comes in to force on 10th April 2006. The Act amends the provisions in sections 141 and 142 of the Social Security Contributions and Benefits Act 1992 (SSCBA) by redefining those people in respect of whom child benefit might be claimed and paid. The changes introduced in the Act affect the conditions of entitlement to child benefit once a child attains age 16. Child benefit will continue to be payable for a person who is not yet age 16 and as now there will be no conditions attached to being treated as “a child”.

Once a person attains age 16 they will cease to be treated as “a child”. Child benefit will then only be payable if a young person is a “qualifying young person”. Section 142 of the SSCBA as amended will define a qualifying young person as a person who has not attained such age greater than 16 as is prescribed in regulations, who also satisfies further prescribed conditions. The power to prescribe the upper age limit and the conditions that need to be satisfied is exercisable by HM Treasury.

The Child Benefit Act also provides for the same amendments to be made to sections 138 and 139 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (SSCB(NI)A), which are the provisions equivalent to sections 141 and 142 of the SSCBA.

5. Extent

This instrument applies to all of the United Kingdom

6. European Convention on Human Rights

These regulations are subject to annulment and do not amend primary legislation. Accordingly, a statement that the instrument is compatible with the Convention rights is not required.

7. Policy Background

7.1 Conditions for being a “qualifying young person”

- 7.1.1 Regulation 2 explains that regulations 3 to 7 of the Regulations prescribe the age which a person must have attained and the conditions which need to be met for a person to be a qualifying young person. As a person may satisfy more than one of the conditions set out in regulations 3 to 7, regulation 2(2) provides that the person will continue to be treated as a qualifying young person until the last of them ceases to apply.
- 7.1.2 Regulation 2(3) lays down a provision by which a young person, who is 19 before 10th April 2006, is excluded from being a qualifying young person.
- 7.1.3 Regulation 3 sets out the conditions a person must satisfy if they are undertaking education or training. Under this provision child benefit can be paid for young people in full-time, non-advanced education or approved training who have not attained age 20. This measure extends entitlement beyond the current cut off at a young person’s 19th birthday. Provided the young person begins a course of full-time non-advanced education or approved training before they reach 19 (regulation 3(4)), child benefit will continue to be paid until they finish their course or reach their 20th birthday, whichever is earliest.
- 7.1.4 Regulation 3(2)(a) provides the condition that a person is undertaking a course of full-time education, which is not advanced education and which is not provided by virtue of their employment or any office held by the person. The term “full time education” is defined in regulation 1. This incorporates the effect of the provision contained in section 142(1)(c) of SSCBA and section 138(1)(c) of the SSCB(NI)A and regulation 5 of the Child Benefit (General) Regulations 2003. Section 142(1) of the SSCBA and section 138(1) of the SSCB(NI)A are replaced and this provision re-enacts the provisions formerly contained in paragraph (c) of each of those subsections. Regulation 1 maintains the present definition of the term “advanced education”.
- 7.1.5 Regulation 3(2)(a)(ii) and (3) re-enact the provision contained in section 142(2) of the SSCBA and section 138(2) of the SSCB(NI)A regarding a person who is not educated at a school or college, but who is educated elsewhere. Provided the education is recognised by the Commissioners of HM Revenue and Customs, and they were so educated before reaching age 16, they will meet the condition to be a qualifying young person.

- 7.1.6 Regulation 3(2)(c) extends child benefit to those who are undertaking a course of “approved training”. Approved training is defined in regulation 1 by reference to a list of specified training arrangements made by the Government. The term “arrangements made by the Government” is separately defined in regulation 1 by reference to the powers available to provide for such training arrangements. This definition is limited in regulation 3(2)(c) to only where this training is not provided by the young person’s contract of employment or any office held by him.
- 7.1.7 Regulation 4 enables a young person who turns 16 to be treated as a qualifying young person up to the following 31st August.
- 7.1.8 Regulation 8 provides that, in respect of any person who has not attained age 20, in any week it is a condition for being a qualifying young person that they are not receiving specified benefits in their own right.

7.2 Child benefit extension period

- 7.2.1 Regulation 5 provides for a young person aged 16 or 17 years old, who has left education or approved training to be treated as a qualifying young person, provided that they have registered for employment, training or education with a qualifying body. These qualifying bodies are: the Connexions Service; the relevant careers service; in Northern Ireland, the Department for Employment and Learning or an Education and Library Board; and the Ministry of Defence.
- 7.2.2 Under regulation 5(3) the extension is for a period of 20 weeks starting the week following the week in which the young person leaves education or training.
- 7.2.3 This regulation aligns the arrangements for determining the child benefit extension period with the equivalent child tax credit measure in regulation 5(3) of the Child Tax Credit Regulations 2002. It replaces the current arrangements in regulation 8 of the Child Benefit (General) Regulations 2003.

7.3 Interruptions to full-time education or approved training

Regulation 6 re-enacts the provision contained in section 142(4) of the SSCBA and section 138(4) of the SSCB(NI)A and regulation 6 of the Child Benefit (General) Regulations 2003 for dealing with the interruptions of courses of education and extends the provision to people on approved training courses.

7.4 Terminal Dates

- 7.4.1 Regulation 7 provides for the terminal dates when child benefit will cease to be payable where a person no longer satisfies the conditions for being a qualifying young person. This provision replaces the existing arrangement for terminal dates in regulation 7 of the Child Benefit (General)

Regulations 2003. Under Case 1 paragraph 1.1 child benefit remains payable from the date a person ceases either relevant full-time education or approved training up to and including the week that includes the terminal date or if earlier the week in which the person reaches age 20. Paragraph 1.2 of Case 1 provides for 4 terminal dates spread across the year on the last day of February, May, August and November.

- 7.4.2 Regulation 7, Case 1, paragraph 1.3 provides for those in Scotland who, because of their examination timetables, might otherwise be less favourably treated than their counterparts elsewhere in the UK. This measure enables such young people to be treated as ceasing education at a date that is reckoned by reference to the date they would have ceased if they sat the comparable examinations in England and Wales. The Northern Ireland examination timetable does not require a similar measure to be provided in respect of young people sitting examinations there.
- 7.4.3 Regulation 7, Case 2 maintains the protection currently provided in Regulation 7, Case 2 of the Child Benefit (General) Regulations 2003 for young people who have completed a course of full-time, non-advanced education but who have still to sit the examinations of the course.

7.5 Other Changes

- 7.5.1 The Civil Partnership Act 2004 (Tax Credits, etc) (Consequential Amendments) Order 2005 amends child benefit, guardian's allowance, child trust funds and tax credit legislation so as to implement the Civil Partnership Act 2004 and comes in to force alongside that Act on 5th December. The Order amends provisions in the Child Benefit (General) Regulations 2003 relating to a married child (Regulation 13) and a child living with another as his spouse (Regulation 12) as well as inserting definitions into the interpreting provisions of a "couple", "partner" and a "civil partnership". These regulations consolidate those amendments.
- 7.5.2 Regulation 1 has been amended to insert an additional office that HMRC recognises as an appropriate office for child benefit claims, Comben House in Netherton on Merseyside.
- 7.5.3 The terms of regulation 11 have been amended from those used in Regulation 4 of the Child Benefit (General) Regulations 2003. Regulation 4(1)(b) carries forward the provisions previously found in regulation 2(1) of the Child Benefit (General) Regulations 1976. The regulations intend to provide for a situation where two or more persons contribute to the cost of providing for a child, but the amount of each person's contribution is less than the weekly rate of child benefit payable in respect of that child. Where the aggregate contribution is an amount more than the weekly rate the contributors may agree to nominate that the aggregate weekly amount of their contributions are to be treated as having been made by the person nominated. Regulation 11(1)(b) redraws the provision in terms that express the intention more clearly.

- 7.5.4 Regulations 23 and 27 amend the regulations 24 and 28 in the Child Benefit (General) Regulations 2003 by extending the right to reside test in child benefit beyond the initial transition period ending on 1st May 2006.
- 7.5.5 The ordering of the paragraphs in regulation 35 (polygamous marriages) is amended. It is considered more logical to set out the definition of a monogamous marriage in the first instance before that of a polygamous marriage.
- 7.5.6 The ordering of the Parts of the Regulations has been amended to follow a more logical structure, where the conditions pertaining to whether there is a child or qualifying young person in respect of whom child benefit might be paid are set out ahead of other aspects of entitlement.

8. Impact

A regulatory impact assessment has not been prepared for this instrument as it has no impact on businesses, charities or voluntary bodies. A full Regulatory Impact Assessment was produced for the draft indicative regulations that set out the Government's intended extensions to the scope of child benefit entitlement and which were published by HM Treasury on 10 January 2005. A copy of that Regulatory Impact Assessment has been placed in the Library of each House.

9. Contact

The Lead Official is

Jenny Fox

HMRC Benefits and Credits Group
1/E12 100 Parliament Street
Tel: 02071472503
Email: jenny.fox@hmrc.gsi.gov.uk