

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (YOUNG PERSONS) AMENDMENT REGULATIONS 2006
2006 No. 718

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. Description

2.1 This instrument makes amendments to the Regulations dealing with income-related benefits (IRBs), namely the Income Support (General) Regulations 1987, the Jobseeker's Allowance Regulations 1996, the Housing Benefit (General) Regulations 1987, the Council Tax Benefit (General) Regulations 1992 and the State Pension Credit Regulations 2002. These five sets of Regulations are collectively referred to in this memorandum as "the existing Regulations". The main purpose of this instrument is to amend the existing regulations to take account of the new definition of child and qualifying young person within the Child Benefit Act 2005.

3. Matters Of Special Interest To The Joint Committee On Statutory Instruments

3.1 None

4. Legislative Background

4.1 The ChB Act 2005 amends the existing definition of a child, currently up to age 19, and replaces it with a definition that provides for Child Benefit (ChB) to be payable in respect of both a child and a "Qualifying Young Person" (QYP). The new definition of a child is someone under the age of 16 and the definition of a QYP is given as a person other than a child, who has not attained the age of 20 and who meets conditions that are prescribed in regulations.

4.2 Regulations under the ChB Act 2005 will complete those changes (The Child Benefit (General) Regulations 2005). The qualifying rules for ChB will be extended to those completing a course of full-time non-advanced education ("relevant education"), which commenced prior to their 19th birthday. ChB will cease when the course is complete or the QYP reaches age 20. In addition family financial support has also been extended to unwaged trainees in work-based learning programmes arranged by the Government ("approved training") and these young people will be treated the same as those in relevant education.

4.3 To ensure that the underlying principles behind these changes are taken forward by the IRBs, the Secretary of State for Work and Pensions proposes to amend the existing regulations to remove certain distinctions between education and training and to take account of the changes to ChB eligibility, which will come into force from 10th April 2006.

5. Extent

5.1 This instrument extends to Great Britain.

6. The European Convention On Human Rights

6.1 As the Instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 In Budget 2003 the Chancellor established a review to ensure that all young people have the support and incentives they need to participate in education and training. The Review's report "Supporting Young People to Achieve" was published alongside the 2004 Budget and set out the Government's long-term aspiration of a single coherent system for all 16-19 year-olds. The report also set out a range of measures as intermediate steps towards that long-term vision.

7.2 The interim measures include extending ChB to those aged 19 who continue in full-time non-advanced education and to unwaged trainees in approved training provided the course/training starts prior to reaching age 19. ChB will cease when they complete their course/training, or they reach age 20. For those living independently and who satisfy certain criteria entitlement to Income Support will be extended on the same basis.

7.3 To ensure that financial considerations do not influence choices between education and training the distinction between education and unwaged training in ChB, Child Tax Credit (CTC) and the IRBs has been removed, leaving parity in financial support for the two learning routes. The new arrangements are due to come into force in April 2006. Her Majesty's revenue and Customs (HMRC) will make the ChB changes through regulations under new powers in the ChB Act 2005.

7.4 In line with the ChB regulations that will reform ChB eligibility from 10 April 2006, the main purpose of this instrument is to change the IRBs in line with the new eligibility rules for ChB, for new and repeat claims. Consequently, entitlement to the IRBs will from 10 April 2006 generally start later for people who will be entitled to ChB for longer.

7.5 As a result people age 19, who continue in full-time non-advanced education or approved training will no longer be entitled to claim an IRB if their parents/guardians continue to receive ChB for them under the new rules. However, certain people (e.g. parents, disabled, estranged, orphans, refugees learning English) will still be entitled to the IRBs despite continuing to satisfy the new ChB criteria. The provisions within these draft regulations do not however, alter trainees' entitlement to other benefits, in particular HB and CTB. In addition the current benefit rules for those in training will be retained for those not on "approved training".

7.6 In addition a minor amendment to the definition of student will ensure that young people age 19 in full-time non-advanced (“relevant”) education are treated as either a person in relevant education or a student but not both. Also the circumstances in which persons in relevant education are to be entitled to IS in their own right will be amended to align them with the prescribed circumstances for students, in relation to disabled young people and refugees. This serves two purposes. It ensures that benefit entitlement is consistent for those that, as result of these changes, are re-classified as being in relevant education, rather than students. At the same time it removes a rather archaic test for the severely mentally or physically handicapped that is currently used for people in relevant education, and replaces it with more objective criteria in line with existing tests in the legislation that are already used for students and normal benefit entitlement.

Consultation

7.7 The Social Security Advisory Committee agreed that these regulations should not be referred to it for formal consultation. The Local Authority Associations were also consulted and are content with the regulations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on the business

8.2 The impact on the Public sector is negligible.

9. Contact Details

Beverley Walsh at the Department for Work and Pension (telephone 0113 23 27608, E-mail Beverley.walsh@jobcentreplus.gsi.gov.uk) can answer any queries regarding the instrument.