

**EXPLANATORY MEMORANDUM TO  
THE SOCIAL SECURITY PENSIONS (HOME RESPONSIBILITIES) AMENDMENT  
REGULATIONS 2008**

**2008 No. 498**

**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 amends the Social Security Pensions (Home Responsibilities) Regulations 1994 (“the HRP Regulations”). It enables the partners of persons getting Child Benefit for children under the age of 16 to get Home Responsibilities Protection (HRP) and Additional Pension in their own right if the person getting Child Benefit does not need that protection himself. It also updates an obsolete reference in those Regulations to a provision of the Income Support (General) Regulations 1987 and clarifies the time from when foster parents can get HRP.

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

3.1 None

**4. Legislative Background**

4.1 This amendment amends the HRP Regulations to give flexibility to counter the problem which arises when the member of a couple relying on HRP to protect their future State Pension whilst they were caring for a child is not the member of a couple who claimed Child Benefit for that child. It also clarifies the date from which HRP was extended to foster parents and updates an obsolete reference to a provision of the Income Support (General) Regulations.

4.2 HRP is available to persons in various caring circumstances and in particular, in the context of these regulations, to persons who throughout a complete tax year are awarded

Child Benefit for a child aged under 16. Since 2002 it has also given entitlement to Additional Pension where a person is awarded Child Benefit for a child aged under 6.

- 4.3 Only one member of a couple can claim Child Benefit in respect of a child. It cannot, under Child Benefit legislation, be treated as paid to another person for a period in which it was correctly paid to the person with priority title – usually the mother.
- 4.4. When, occasionally, it comes to light that Child Benefit has been claimed by the member of a couple who was in paid employment rather than the person who was staying at home to care for the child, there is no flexibility to award HRP or Additional Pension to the person who could benefit from it for any past period.
- 4.5. This amendment will effectively treat Child Benefit as paid to the partner of the Child Benefit claimant for the purposes of HRP and Additional Pension. This will be where they were residing with the claimant throughout a relevant year and sharing care for a child under 16 and the Child Benefit claimant cannot themselves benefit because their earnings were equal to or above the qualifying earnings factor for that year (in respect of 2002/03 year and any subsequent years, the qualifying earnings factor is derived from earnings not exceeding the upper earnings limit upon which primary Class 1 contributions were paid or treated as paid). The amendment will only apply where the partner reaches State Pension age on or after 6 April 2008 or, in the case of a Bereavement Benefit claim, dies on or after that date.
- 4.6 During the course of the Second Reading of the Pensions Act 2007, James Purnell announced that regulations would ensure that there was sufficient flexibility to deal with this problem arising in connection with the credits for parents and carers which would replace HRP from April 2010. [Hansard Ref: 16 January 2007 Column 752].

## **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**

### Policy

- 7.1 HRP is designed to protect basic State Pension for people who are precluded from regular employment by responsibilities at home. It operates by reducing the number of qualifying years a person requires for entitlement to a full basic State Pension. HRP became effective from 6 April 1978.
- 7.2 The number currently affected by the problem which this instrument seeks to address is very small – based on the number of appeals brought, less than 80 a year. However, when the reforms brought about by the Pensions Act 2007 come into force in 2010, particularly the abolition of the first contribution condition and the conversion of HRP years into qualifying years for benefit purposes, some women previously outside the state pensions system will become eligible for some State Pension in their own right on account of their caring responsibilities. This is especially likely to affect ethnic minority women not engaged in the formal labour market. These women may well have agreed to their working husband drawing the ChB on the basis that HRP alone could not have brought them any benefit. It is anticipated that this amendment will be of particular benefit to them.
- 7.3 This is a minor administrative change which is unlikely to attract public or media attention but it will remove a potential disadvantage for those who might be affected.

### Consultation

- 7.4 No formal consultation has taken place. The amendment is entirely beneficial.

### Guidance

- 7.5 Publicity will be in leaflets which give information about Home Responsibilities Protection, pension forecasts, deficiency notices and any other relevant publication. Information will also be available on the internet.

### Consolidation

- 7.6 The relevant legislation will not be consolidated since HRP will be replaced by a system of credits for parents and carers from April 2010.

## **8. Impact**

- 8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is a minor beneficial one because there should be fewer appeals against and complaints about HRP non-eligibility.
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## **9. Contact**

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