

ELIZABETH II

c. 6



# Child Benefit Act 2005

## 2005 CHAPTER 6

An Act to make provision for and in connection with altering the descriptions of persons in respect of whom a person may be entitled to child benefit. [24th March 2005]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### 1 Persons for whom child benefit may be claimed: Great Britain

- (1) In section 141 of the Social Security Contributions and Benefits Act 1992 (c. 4) (which provides that, subject to what follows, a person is entitled to child benefit in respect of each child for whom he is responsible)—
  - (a) after “one or more children” insert “or qualifying young persons”, and
  - (b) for “child or each of the children” substitute “child or qualifying young person, or each of the children or qualifying young persons,”.
- (2) For section 142 of that Act (which defines as a child for the purposes of child benefit a person who is under 16, or is under 18 and not in full-time education but satisfies prescribed conditions, or is under 19 and in full-time education) substitute—

#### “142 “Child” and “qualifying young person”

- (1) For the purposes of this Part of this Act a person is a child if he has not attained the age of 16.
- (2) In this Part of this Act “qualifying young person” means a person, other than a child, who —
  - (a) has not attained such age (greater than 16) as is prescribed by regulations made by the Treasury, and
  - (b) satisfies conditions so prescribed.”

(3) Part 1 of Schedule 1 contains amendments consequential on this section.

## **2 Persons for whom child benefit may be claimed: Northern Ireland**

(1) In section 137 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), (which provides that, subject to what follows, a person is entitled to child benefit in respect of each child for whom he is responsible)—

- (a) after “one or more children” insert “or qualifying young persons”, and
- (b) for “child or each of the children” substitute “child or qualifying young person, or each of the children or qualifying young persons,”.

(2) For section 138 of that Act (which defines as a child for the purposes of child benefit a person who is under 16, or is under 18 and not in full-time education but satisfies prescribed conditions, or is under 19 and in full-time education) substitute—

### **“138 “Child” and “qualifying young person”**

- (1) For the purposes of this Part of this Act a person is a child if he has not attained the age of 16.
- (2) In this Part of this Act “qualifying young person” means a person, other than a child, who —
  - (a) has not attained such age (greater than 16) as is prescribed by regulations made by the Treasury, and
  - (b) satisfies conditions so prescribed.”

(3) Part 2 of Schedule 1 contains amendments consequential on this section.

## **3 Repeals**

Schedule 2 contains—

- (a) in Part 1, repeals of enactments extending to England and Wales and Scotland, and
- (b) in Part 2, repeals of enactments extending to Northern Ireland.

## **4 Financial provision**

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums which under any other Act are payable out of money so provided.

## **5 Extent**

- (1) Section 1 (and Part 1 of Schedule 1) and section 3(a) (and Part 1 of Schedule 2) extend only to England and Wales and Scotland.
- (2) Section 2 (and Part 2 of Schedule 1) and section 3(b) (and Part 2 of Schedule 2) extend only to Northern Ireland.

## **6 Commencement**

- (1) Any power to make regulations conferred on the Treasury by virtue of this Act may be exercised at any time after the passing of this Act.
- (2) But, subject to that, this Act does not come into force until 10th April 2006.

## **7 Short title**

This Act may be cited as the Child Benefit Act 2005.

## SCHEDULES

### SCHEDULE 1

Sections 1 and 2

#### CONSEQUENTIAL AMENDMENTS

#### PART 1

#### GREAT BRITAIN

*Social Security Contributions and Benefits Act 1992 (c. 4)*

**1** *Social Security Contributions and Benefits Act 1992 (c. 4)*

The Social Security Contributions and Benefits Act 1992 is amended as follows.

- 2** (1) Section 37 (widowed mother's allowance) is amended as follows.
- (2) In subsection (1)(a), after "a child" insert "or qualifying young person".
- (3) In subsection (2), after—
- (a) "A child",
  - (b) "the child", in both places, and
  - (c) "a child", in both places,
- insert "or qualifying young person".
- 3** (1) Section 39A (widowed parent's allowance) is amended as follows.
- (2) In subsection (2)(a), after "a child" insert "or qualifying young person".
- (3) In subsection (3), after—
- (a) "A child",
  - (b) "the child", in both places, and
  - (c) "a child", in both places,
- insert "or qualifying young person".
- 4** (1) Section 77 (guardian's allowance) is amended as follows.
- (2) In subsection (1), after—
- (a) "a child", and
  - (b) "that child",
- insert "or qualifying young person".
- (3) In subsection (2), for "child's parents", in each place, substitute "parents of the child or qualifying young person".
- (4) In subsection (3)—
- (a) after "child" insert "or qualifying young person", and

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- (b) for “child’s parent’s” substitute “parents of the child or qualifying young person”.
- (5) In subsection (4), after “child” insert “or qualifying young person”.
- (6) In subsection (5), after “child”, in both places, insert “or qualifying young person”.
- (7) In subsection (7), after “child” insert “or qualifying young person”.
- (8) In subsection (8)—
  - (a) after “child”, in both places, insert “or qualifying young person”, and
  - (b) for “a child’s parents” substitute “the parents of a child or qualifying young person”.
- (9) In subsection (9), after “child” insert “or qualifying young person”.
- (10) In subsection (10), after “child” insert “or qualifying young person”.
- (11) In subsection (11), after “child”, in both places, insert “or qualifying young person”.
- 5** In section 82(4) (increase in maternity allowance)—
  - (a) after “nor a child” insert “or qualifying young person”, and
  - (b) for “a child or children” substitute “one or more children or qualifying young persons”.
- 6** (1) Section 85 (increase in retirement pension) is amended as follows.
  - (2) In subsection (2)—
    - (a) after “nor a child” insert “or qualifying young person”, and
    - (b) for “a child or children” substitute “one or more children or qualifying young persons”.
  - (3) In the heading, after “**children**” insert “**or qualifying young persons**”.
- 7** (1) Section 114 (persons maintaining dependants etc.) is amended as follows.
  - (2) In subsection (1), after “child” insert “or qualifying young person”.
  - (3) In subsection (3), after “children” insert “or qualifying young persons”.
- 8** (1) Section 122(1) (Parts 1 to 6: interpretation) is amended as follows.
  - (2) For the definition of “child” substitute—

““child” has the same meaning as in Part 9 of this Act;”
  - (3) Insert at the appropriate place—

““qualifying young person” has the same meaning as in Part 9 of this Act;”
- 9** (1) Section 143 (child benefit: person responsible for child) is amended as follows.
  - (2) In subsection (1), after “child”, in each place except in the phrase “child benefit”, insert “or qualifying young person”.
  - (3) In subsection (2), after “child”, in both places, insert “or qualifying young person”.
  - (4) In subsection (3)—
    - (a) for “child’s” substitute “fact that the child or qualifying young person is”,

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- (b) in paragraph (a), for “full-time education by attendance at a recognised educational establishment” substitute “education or training of a description prescribed by regulations made by the Treasury”, and
  - (c) in paragraph (c), omit “being,”.
- (5) In subsection (4)—
  - (a) after “any child” and “for the child” insert “or qualifying young person”, and
  - (b) for “of the child” substitute “of him”.
- (6) In subsection (5), after “child”, in both places, insert “or qualifying young person”.
- (7) In the heading, for “**child**” substitute “**child or qualifying young person**”.
- 10** (1) Section 144 (child benefit: exclusions and priority) is amended as follows.
  - (2) Omit subsection (1).
  - (3) In subsection (2), omit “in other cases”.
  - (4) In subsection (3), after “same child” insert “or qualifying young person”.
- 11** In section 145(2) (different rates of child benefit by reference to age of child), after “child” insert “or qualifying young person”.
- 12** (1) Section 145A (entitlement to child benefit after death of child) is amended as follows.
  - (2) In subsection (1), after—
    - (a) “a child”, and
    - (b) “the child”,
 insert “or qualifying young person”.
  - (3) In subsection (4), after “a child” insert “or qualifying young person”.
  - (4) In the heading, after “**child**” insert “**or qualifying young person**”.
- 13** (1) Section 146 (child benefit: presence in Great Britain) is amended as follows.
  - (2) In subsection (1), after “a child” insert “or qualifying young person”.
  - (3) In subsection (3)—
    - (a) for “a child or other” substitute “any”, and
    - (b) for “this section” substitute “subsection (1) or (2) above”.
- 14** (1) Section 147 (child benefit: interpretation and supplementary) is amended as follows.
  - (2) In subsection (1), omit the definition of “recognised educational establishment”.
  - (3) In subsection (3), after “child” insert “or qualifying young person”.
- 15** (1) Part 5 of Schedule 4 (rates of industrial injuries benefits) is amended as follows.
  - (2) In paragraphs 1 and 4, in the second column, in paragraph (a), omit “child or adult”.
  - (3) In paragraph 12—
    - (a) in the first column, after “children” insert “and qualifying young persons”, and
    - (b) in the second column, for “qualifying child” substitute “child or qualifying young person”.

- 16** (1) Schedule 7 (industrial injuries benefits) is amended as follows.
- (2) In paragraph 4—
- (a) in sub-paragraph (1), for “a child or children” substitute “one or more children or qualifying young persons”, and
  - (b) in sub-paragraph (4), after “child”, in both places, insert “or qualifying young person”,
- and in the heading before that paragraph, after “*children*” insert “*and qualifying young persons*”.
- (3) In paragraph 5(1), after “child”, in each place, insert “or qualifying young person”.
- (4) In paragraph 6(1)—
- (a) after “nor a child” insert “or qualifying young person”, and
  - (b) for “a child or children” substitute “one or more children or qualifying young persons”.
- (5) In paragraph 16(2)(a), after “children” insert “or qualifying young persons”.
- (6) In paragraph 18—
- (a) for “a child or children” substitute “one or more children or qualifying young persons”,
  - (b) after “that child”, in each place, insert “or qualifying young person”, and
  - (c) after “those children”, in each place, insert “or qualifying young persons”,
- and in the heading before that paragraph, for “*Children of deceased's*” substitute “*Deceased's*”.
- (7) In paragraph 19, after “child”, in each place, insert “or qualifying young person”; and in the heading before that paragraph, after “*children*” insert “*and qualifying young persons*”.
- 17** (1) Schedule 9 (exclusions from entitlement to child benefit) is amended as follows.
- (2) In paragraph 1, after—
- (a) “a child”, and
  - (b) “the child”,
- insert “or qualifying young person”; and, in the heading before it, after “*Children*” insert “*and qualifying young persons*”.
- (3) Omit paragraph 2 (and the heading before it).
- (4) In paragraph 3, after “a child” insert “or qualifying young person”; and, in the heading before it, after “*Children*” insert “*and qualifying young persons*”.
- 18** (1) Schedule 10 (priority between persons entitled to child benefit) is amended as follows.
- (2) In paragraph 1(1), after—
- (a) “a child”, and
  - (b) “that child”,
- insert “or qualifying young person”.
- (3) In the heading before paragraph 2, after “*child*” insert “*or qualifying young person*”.
- (4) In paragraph 4, after “child”, in both places, insert “or qualifying young person”.

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*Social Security Administration Act 1992 (c. 5)*

**19** *Social Security Administration Act 1992 (c. 5)*

The Social Security Administration Act 1992 is amended as follows.

- 20** (1) Section 13 (necessity of application for child benefit) is amended as follows.
- (2) In subsection (1C), after “children” insert “or qualifying young persons”.
- (3) In subsection (2), after “same child” insert “or qualifying young person”.
- 21** In section 73(2)(c) and (5)(c) (overlapping benefits), omit “child or adult”.
- 22** In section 80 (child benefit: overlap with benefits under legislation of other member States), after “any child” insert “or qualifying young person”.
- 23** In section 155(6) (effect of alteration of rates of benefit), after “child” insert “or qualifying young person”.
- 24** In section 157(2) (effect of alteration of rates of child benefit), after “a child”, in both places, insert “or qualifying young person”.
- 25** In section 158(1) (treatment of excess benefit as paid on account of child benefit), after—
- (a) “a child”, and
  - (b) “of the child”, in both places,
- insert “or qualifying young person”.

*Social Security Act 1998 (c. 14)*

**26** *Social Security Act 1998 (c. 14)*

In section 18(2) of the Social Security Act 1998 (regulations about decisions), after—

- (a) “a child”, and
  - (b) “the child”,
- insert “or qualifying young person”.

**PART 2**

NORTHERN IRELAND

*Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

**27** *Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended as follows.

- 28** (1) Section 37 (widowed mother’s allowance) is amended as follows.
- (2) In subsection (1)(a), after “a child” insert “or qualifying young person”.
- (3) In subsection (2), after—
- (a) “A child”,
  - (b) “the child”, in both places, and
  - (c) “a child”, in both places,



insert “or qualifying young person”.

- 29** (1) Section 39A (widowed parent’s allowance) is amended as follows.
- (2) In subsection (2)(a), after “a child” insert “or qualifying young person”.
- (3) In subsection (3), after—
- (a) “A child”,
  - (b) “the child”, in both places, and
  - (c) “a child”, in both places,
- insert “or qualifying young person”.
- 30** (1) Section 77 (guardian’s allowance) is amended as follows.
- (2) In subsection (1), after—
- (a) “a child”, and
  - (b) “that child”,
- insert “or qualifying young person”.
- (3) In subsection (2), for “child’s parents”, in each place, substitute “parents of the child or qualifying young person”.
- (4) In subsection (3)—
- (a) after “child” insert “or qualifying young person”, and
  - (b) for “child’s parent’s” substitute “parents of the child or qualifying young person”.
- (5) In subsection (4), after “child” insert “or qualifying young person”.
- (6) In subsection (5), after “child”, in both places, insert “or qualifying young person”.
- (7) In subsection (7), after “child” insert “or qualifying young person”.
- (8) In subsection (8)—
- (a) after “child”, in both places, insert “or qualifying young person”, and
  - (b) for “a child’s parents” substitute “the parents of a child or qualifying young person”.
- (9) In subsection (9), after “child” insert “or qualifying young person”.
- (10) In subsection (10), after “child” insert “or qualifying young person”.
- (11) In subsection (11), after “child”, in both places, insert “or qualifying young person”.
- 31** In section 82(4) (increase in maternity allowance)—
- (a) after “nor a child” insert “or qualifying young person”, and
  - (b) for “a child or children” substitute “one or more children or qualifying young persons”.
- 32** (1) Section 85 (increase in retirement pension) is amended as follows.
- (2) In subsection (2)—
- (a) after “nor a child” insert “or qualifying young person”, and
  - (b) for “a child or children” substitute “one or more children or qualifying young persons”.
- (3) In the heading, after “**children**” insert “**or qualifying young persons**”.

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- 33** (1) Section 114 (persons maintaining dependants etc.) is amended as follows.
- (2) In subsection (1), after “child” insert “or qualifying young person”.
- (3) In subsection (3), after “children” insert “or qualifying young persons”.
- 34** (1) Section 121(1) (Parts 1 to 6: interpretation) is amended as follows.
- (2) For the definition of “child” substitute—
- ““child” has the same meaning as in Part 9 of this Act;”
- (3) Insert at the appropriate place—
- ““qualifying young person” has the same meaning as in Part 9 of this Act;”
- 35** (1) Section 139 (child benefit: person responsible for child) is amended as follows.
- (2) In subsection (1), after “child”, in each place except in the phrase “child benefit”, insert “or qualifying young person”.
- (3) In subsection (2), after “child”, in both places, insert “or qualifying young person”.
- (4) In subsection (3)—
- (a) for “child's” substitute “fact that the child or qualifying young person is”,
- (b) in paragraph (a), for “full-time education by attendance at a recognised educational establishment” substitute “education or training of a description prescribed by regulations made by the Treasury”, and
- (c) in paragraph (c), omit “being.”.
- (5) In subsection (4)—
- (a) after “any child” and “for the child” insert “or qualifying young person”, and
- (b) for “of the child” substitute “of him”.
- (6) In subsection (5), after “child”, in both places, insert “or qualifying young person”.
- (7) In the heading, for “**child**” substitute “**child or qualifying young person**”.
- 36** (1) Section 140 (child benefit: exclusions and priority) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (2), omit “in other cases”.
- (4) In subsection (3), after “same child” insert “or qualifying young person”.
- 37** In section 141(2) (different rates of child benefit by reference to age of child), after “child” insert “or qualifying young person”.
- 38** (1) Section 141A (entitlement to child benefit after death of child) is amended as follows.
- (2) In subsection (1), after—
- (a) “a child”, and
- (b) “the child”,
- insert “or qualifying young person”.
- (3) In subsection (4), after “a child” insert “or qualifying young person”.
- (4) In the heading, after “**child**” insert “**or qualifying young person**”.

- 39** (1) Section 142 (child benefit: presence in Northern Ireland) is amended as follows.
- (2) In subsection (1), after “a child” insert “or qualifying young person”.
- (3) In subsection (3)—
- (a) for “a child or other” substitute “any”, and
  - (b) for “this section” substitute “subsection (1) or (2) above”.
- 40** (1) Section 143 (child benefit: interpretation and supplementary) is amended as follows.
- (2) In subsection (1), omit the definition of “recognised educational establishment”.
- (3) In subsection (3), after “child” insert “or qualifying young person”.
- 41** (1) Part 5 of Schedule 4 (rates of industrial injuries benefits) is amended as follows.
- (2) In paragraphs 1 and 4, in the second column, in paragraph (a), omit “child or adult”.
- (3) In paragraph 12—
- (a) in the first column, after “children” insert “and qualifying young persons”, and
  - (b) in the second column, for “qualifying child” substitute “child or qualifying young person”.
- 42** (1) Schedule 7 (industrial injuries benefits) is amended as follows.
- (2) In paragraph 4—
- (a) in sub-paragraph (1), for “a child or children” substitute “one or more children or qualifying young persons”, and
  - (b) in sub-paragraph (4), after “child”, in both places, insert “or qualifying young person”,
- and in the heading before that paragraph, after “*children*” insert “*and qualifying young persons*”.
- (3) In paragraph 5(1), after “child”, in each place, insert “or qualifying young person”.
- (4) In paragraph 6(1)—
- (a) after “nor a child” insert “or qualifying young person”, and
  - (b) for “a child or children” substitute “one or more children or qualifying young persons”.
- (5) In paragraph 16(2)(a), after “children” insert “or qualifying young persons”.
- (6) In paragraph 18—
- (a) for “a child or children” substitute “one or more children or qualifying young persons”,
  - (b) after “that child”, in each place, insert “or qualifying young person”, and
  - (c) after “those children”, in each place, insert “or qualifying young persons”,
- and in the heading before that paragraph, for “*Children of deceased's*” substitute “*Deceased's*”.
- (7) In paragraph 19, after “child”, in each place, insert “or qualifying young person”; and in the heading before that paragraph, after “*children*” insert “*and qualifying young persons*”.
- 43** (1) Schedule 9 (exclusions from entitlement to child benefit) is amended as follows.

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- (2) In paragraph 1—
  - (a) in sub-paragraph (1), after “a child” and “the child”, and
  - (b) in sub-paragraph (2), after “a child”,
 insert “or qualifying young person”; and, in the heading before it, after “*Children*” insert “*and qualifying young persons*”.
- (3) Omit paragraph 2 (and the heading before it).
- (4) In paragraph 3, after “a child” insert “or qualifying young person”; and, in the heading before it, after “*Children*” insert “*and qualifying young persons*”.
- 44** (1) Schedule 10 (priority between persons entitled to child benefit) is amended as follows.
  - (2) In paragraph 1(1), after—
    - (a) “a child”, and
    - (b) “that child”,
 insert “or qualifying young person”.
  - (3) In the heading before paragraph 2, after “*child*” insert “*or qualifying young person*”.
  - (4) In paragraph 4, after “child”, in both places, insert “or qualifying young person”.

*Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

- 45** *Social Security Administration (Northern Ireland) Act 1992 (c. 8)*  
 The Social Security Administration (Northern Ireland) Act 1992 is amended as follows.
- 46** (1) Section 11 (necessity of application for child benefit) is amended as follows.
  - (2) In subsection (1C), after “children” insert “or qualifying young persons”.
  - (3) In subsection (2), after “same child” insert “or qualifying young person”.
- 47** In section 71(2)(c) and (5)(c) (overlapping benefits), omit “child or adult”.
- 48** In section 76 (child benefit: overlap with benefits under legislation of other member States), after “any child” insert “or qualifying young person”.
- 49** In section 135(6) (effect of alteration of rates of benefit), after “child” insert “or qualifying young person”.
- 50** In section 137(2) (effect of alteration of rates of child benefit), after “a child”, in both places, insert “or qualifying young person”.
- 51** In section 138(1) (treatment of excess benefit as paid on account of child benefit), after—
  - (a) “a child”, and
  - (b) “of the child”, in both places,
 insert “or qualifying young person”.

*Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))*

- 52** *Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))*  
 In Article 18(2) of the Social Security (Northern Ireland) Order 1998 (regulations about decisions), after—

- (a) “a child”, and
  - (b) “the child”,
- insert “or qualifying young person”.

## SCHEDULE 2

Section 3

### REPEALS

#### PART 1

##### GREAT BRITAIN

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Social Security Contributions and Benefits Act 1992 (c. 4)	In section 143(3)(c), the word “being,”. In section 144, subsection (1) and, in subsection (2), the words “in other cases”. In section 147(1), the definition of “recognised educational establishment”. In Schedule 4, in Part 5, in paragraphs 1 and 4, in the second column, in paragraph (a), the words “child or adult”. In Schedule 9, paragraph 2 (and the heading before it).
Social Security Administration Act 1992 (c. 5)	In section 73(2)(c) and (5)(c), the words “child or adult”.
Tax Credits Act 2002 (c. 21)	In section 49(1)(b), the words “section 142(1)(c) and (2) and”.

#### PART 2

##### NORTHERN IRELAND

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)	In section 139(3)(c), the word “being,”. In section 140, subsection (1) and, in subsection (2), the words “in other cases”. In section 143(1), the definition of “recognised educational establishment”. In Schedule 4, in Part 5, in paragraphs 1 and 4, in the second column, in paragraph (a), the words “child or adult”. In Schedule 9, paragraph 2 (and the heading before it).
Social Security Administration (Northern Ireland) Act 1992 (c. 8)	In section 71(2)(c) and (5)(c), the words “child or adult”.

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*Status: This is the original version (as it was originally enacted).*

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*Short title and chapter*

Tax Credits Act [2002 \(c. 21\)](#)

*Extent of repeal*

In section 49(2)(b), the words  
“section 138(1)(c) and (2) and”.