

*These notes refer to the Child Benefit Act 2005 (c.6)
which received Royal Assent on 24th March 2005*

CHILD BENEFIT ACT 2005

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Child Benefit Act, which received Royal Assent on 24th March 2005. They have been prepared by the Inland Revenue in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY

3. Child benefit is a non-contributory, non-income related benefit payable where a person is responsible for a child. It is not taxable. The Act contains measures regarding the conditions of entitlement to child benefit provided for in Part 9 of the Social Security Contributions and Benefits Act 1992 (c 4) – after this referred to as the Contributions and Benefits Act - and in Part 9 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c 7) – after this referred to as the Northern Ireland Contributions and Benefits Act.
4. Section 141 of the Contributions and Benefits Act and section 137 of the Northern Ireland Contributions and Benefits Act provide for child benefit to be paid for each week in which a person is responsible for one or more children. Section 142 of the Contributions and Benefits Act (and 138 of the Northern Ireland Contributions and Benefits Act) define the circumstances in which a person is treated as a child for child benefit purposes in any week.
5. Under section 142(1)(a) anyone who has still to attain the age of 16 is treated as a child. However, when a person attains age 16 he can only be treated as a child for each week in which he satisfies the conditions set out in section 142(1)(b) or (c). Section 142(1)(b) requires that the person be under the age of 18 and not receiving full-time education and satisfy prescribed conditions. Section 142(1)(c) requires that the person be under age 19 and receiving full-time education by attendance at a recognised educational establishment or elsewhere provided that the education is recognised by the Secretary of State or by the Board of Inland Revenue.
6. Section 142(2) provides for the circumstances in which the Secretary of State or the Board may recognise education provided otherwise than at a recognised educational establishment. Section 142(3) provides for regulations to prescribe the circumstances in which education is or is not to be treated as full-time. Section 142(4) provides for regulations to prescribe the circumstances in which interruptions to full-time education can be disregarded. Section 142(5) provides for regulations to prescribe the circumstances in which a person who no longer satisfies the conditions in section 142(1) to be treated as satisfying those conditions provided that the person has not attained age 19.

7. Section 138 of the Northern Ireland Contributions and Benefits Act is in similar terms

OVERVIEW OF THE ACT

8. In March 2004 HM Treasury, the Department for Work and Pensions and the Department for Education and Skills published a report concerning financial support for young persons in the context of their education and training entitled "Supporting young people to achieve: towards a new deal for skills". The Child Benefit Act stems from the findings made in that report.
9. The Act amends the definition of a child by replacing it with a definition of a child and a definition of a qualifying young person. Under the new provisions a child is defined as a person who has not attained the age of 16. A qualifying young person is defined as a person, other than a child, who has not attained the age (greater than 16) that is prescribed in regulations, and who satisfies prescribed conditions. It is the intention that in the first instance regulations under the powers introduced by the Act should extend child benefit entitlement to include young people who are on specified unwaged vocational training arranged by the Government as well as those in full-time, non-advanced education. The Government also intends to extend support to 19 year olds completing a course of learning begun before they reached that age. Future changes to the scope of entitlement will respond to developments in curriculum policy and further consultation.

COMMENTARY

10. Section 1 of the Act amends the provisions which identify the persons in respect of whom child benefit is payable. Hitherto the child benefit provisions have not distinguished between children of different ages. Anyone in respect of whom child benefit is payable was regarded as a child, even though the Contributions and Benefits Act requires that a child who had attained age 16 needs to satisfy additional requirements in order to continue to be treated as a child.
11. Section 1(1) amends section 141 of the Contributions and Benefits Act so that child benefit is payable to a person who is responsible for a child or children or a qualifying young person or qualifying young persons.
12. Section 1(2) substitutes in section 142 of the Contributions and Benefits Act a description of those persons who are treated as a child or as a qualifying young person for the purposes of Part 9 of that Act. Under the new provision, a person is treated as a child if he has not attained age 16. Once a person has attained the age of 16 continuing entitlement to child benefit will be dependent on the person being treated as a qualifying young person.
13. Section 1(2) provides that a person is treated as a qualifying young person if he has not attained a prescribed age greater than 16 and also satisfies further prescribed conditions. The Treasury is given the power to prescribe in regulations the age at which a qualifying person will cease to be so treated and the further conditions that a qualifying young person will need to satisfy.
14. Section 1(3) provides for the amendments set out in Part 1 of Schedule 1 to the Act to take effect. These arise as a consequence of making the distinction introduced by section 1(2) between a child and a qualifying young person.
15. Sections 137 and 138 of the Northern Ireland Contributions and Benefits Act are similarly amended by section 2(1) and (2).
16. Section 2(3) provides for the amendments set out in Part 2 of Schedule 1 to the Act to take effect in respect of the provisions which apply in Northern Ireland. These arise as a consequence of making the distinction introduced by section 2(2) between a child and a qualifying young person.

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17. Parts 1 and 2 of Schedule 1 to the Act amend references to a child or children in the Contributions and Benefits Act and the Northern Ireland Contributions and Benefits Act to include references to a qualifying young person or qualifying young persons.
18. Some of the amendments are in respect of provisions governing entitlement to other benefits for which entitlement to child benefit is a condition and which rely on the same concepts as child benefit. In the case of entitlement to widowed mother's allowance under section 37 of the Contributions and Benefits Act, widowed parent's allowance under section 39A of that Act and guardian's allowance under section 77 of that Act, entitlement is conditional upon the person being also entitled to child benefit. Consequently, where entitlement to child benefit is extended by virtue of regulations made under the powers in section 1(2) of the Act, the period of entitlement to these other benefits is also extended.
19. Similarly increases of maternity allowance for an adult dependant under section 82(4) of the Contributions and Benefits Act and increases of unemployability supplement and industrial death benefits for child and adult dependants provided for in Schedule 7 to that Act are conditional upon the person being entitled to child benefit. Again, the period of entitlement to these increases is extended if a person's entitlement to child benefit is extended by virtue of regulations made under the powers in section 1(2) of the Act.
20. Part 2 of Schedule 1 to the Act amends the equivalent provisions of the Northern Ireland Contributions and Benefits Act and has the same effect as Part 1 of Schedule 1 to the Act.

TERRITORIAL EXTENT

21. The Act extends to the whole of the United Kingdom.
22. Child benefit is available throughout the United Kingdom and is not a devolved matter in any part of the United Kingdom.
23. Except in so far as they relate to section 77 and Part 9 of the Northern Ireland Contributions and Benefits Act and to the provisions of the Social Security Administration (Northern Ireland) Act 1992 concerning the administration of guardian's allowance and child benefit, the amendments set out in Part 2 of Schedule 1 to the Act relate to devolved matters in Northern Ireland.

COMMENCEMENT DATE

24. The Act comes into force on 10 April 2006. In order to allow time for regulations made under the Act's powers to come into force from 10 April 2006 the Act provides for the regulation making powers to be used by the Treasury at any time after the Act received Royal Assent.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	13 December 2004	Vol. 428 Col. 1396
Second Reading	12 January 2005	Vol. 429 Cols. 317-371
Committee	18 January 2005	Hansard Standing Committee F
Report and Third Reading	3 February 2005	Vol. 430 Cols. 1041-1066

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House of Lords		
First Reading	4 February 2005	Vol. 699 Col 498
Second Reading	3 March 2005	Vol. 670 Cols. 383-397
Motion to discharge referral to Grand Committee	10 March 2005	Vol 670 Col 845
Order of Commitment to Committee of the Whole House	17 March 2005	Vol. 670 Cols. 1441
Third reading	24 March 2005	Vol. 671 Col 365

Royal Assent – 24 March 2005	House of Lords Hansard Vol. 671 Col 412 House of Commons Hansard Vol. 432 Col 1036
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