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STATUTORY INSTRUMENTS

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**2004 No. 1244**

**SOCIAL SECURITY**

**The Child Benefit (General) (Amendment) Regulations 2004**

*Made* - - - - *30th April 2004*  
*Laid before Parliament* *30th April 2004*  
*Coming into force* - - *1st May 2004*

The Treasury, in exercise of the powers conferred by sections 146(3) and 147(1) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> and sections 142(3) and 143(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(2)</sup> and now vested in them<sup>(3)</sup>, hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Child Benefit (General) (Amendment) Regulations 2004 and shall come into force on 1st May 2004.

(2) These Regulations shall cease to have effect on 1st May 2006 unless revoked with effect from an earlier date.

**Amendment of the Child Benefit (General) Regulations 2003**

2. The Child Benefit (General) Regulations 2003<sup>(4)</sup> are amended as follows.

3. In regulation 21 (circumstances in which a person is treated as not being in Great Britain) add at the end—

“(4) A person shall be treated as not being in Great Britain for the purposes of section 146(2) of the Contributions and Benefits Act where he—

- (a) makes a claim for child benefit on or after 1st May 2004; and
- (b) does not have a right to reside in the United Kingdom.”.

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(1) 1992 c. 4; section 146 was substituted by section 56(1) of the Tax Credits Act 2002 (c. 21). Section 147(1) is cited because of the meaning it ascribes to the word “prescribed”.

(2) 1992 c. 7; section 142 was substituted by section 56(2) of the Tax Credits Act 2002. Section 143(1) is cited because of the meaning it ascribes to the word “prescribed”.

(3) The functions of the Secretary of State under Part 9 of the Social Security Contributions and Benefits Act 1992 were transferred to the Treasury by section 49(1)(b) of the Tax Credits Act 2002. The functions of the Department for Social Development in Northern Ireland under Part 9 of the Social Security Contributions and Benefits (Northern Ireland) Act were transferred to the Treasury by section 49(2)(b) of the Tax Credits Act 2002.

(4) S.I. 2003/493; amended by S.I. 2004/761.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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4. In regulation 25 (circumstances in which a person is treated as not being in Northern Ireland) add at the end—

“(3) A person shall be treated as not being in Northern Ireland for the purposes of section 142(2) of the Contributions and Benefits (NI) Act where he—

- (a) makes a claim for child benefit on or after 1st May 2004; and
- (b) does not have a right to reside in the United Kingdom.”.

30th April 2004

*Joan Ryan*  
*Nick Ainger*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Child Benefit (General) Regulations 2003 (S.I.2003/493: “the principal Regulations”).

Sections 146(2) of the Social Security Contributions and Benefits Act 1992 (c. 4) and section 142(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) provide that no person shall be entitled to child benefit unless he or she is in Great Britain, or Northern Ireland, as the case may be, in that week. Subsection (3) of each section gives power (now vested in the Treasury) to prescribe circumstances in which a person is treated as being, or not being, in the relevant country. Regulations 21 and 25 of the principal Regulations introduce an ordinary residence test.

Regulation 1 of these Regulations provides for citation, commencement and effect, and regulation 2 provides for the principal Regulations to be amended.

Regulations 3 and 4 add new Regulations 21(4) and 25(3) to the principal Regulations. The main effect of the amendments is that, where a person claims child benefit on or after 1st May 2004, he or she must have a legal right to reside in the United Kingdom. The legal right to reside may arise under either domestic or EC law.