

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (CHILD BENEFIT DISREGARD) REGULATIONS 2008**

**2008 No. 3140**

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. Purpose of the instrument**

2.1 The purpose of the instrument is to amend the income-related benefits (*Income Support, income-based Jobseeker's Allowance, Housing Benefit and Council Tax Benefit*) to provide, for a short-term period, a disregard in the calculation of income for Child Benefit (ChB), to take account of the early up-rating of ChB, which has been brought forward to 5<sup>th</sup> January 2009 from April 2009.

2.2 It is intended that the disregard will start when ChB is increased (The Child Benefit (Rates) (Amendment) Regulations 2008 are expected to come into force on 5<sup>th</sup> January 2009) and will cease when the income-related benefits carry out their annual up-rating exercise which will increase child personal allowances. It is anticipated that this will take place in April 2009.

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

3.1 None

**4. Legislative Context**

4.1 The income-related benefits provide financial help for people who are not in full-time work and whose income, from all sources, is below a level set each year by Parliament. Legislation provides for certain income to be disregarded, for example ChB is disregarded in Income Support and income-based Jobseeker's Allowance where children are not included in the benefit assessment i.e. when Child Tax Credit (CTC) is in payment. Where CTC is not in payment an amount for children, "the child personal allowance", is awarded and therefore ChB is taken fully into account as income. The Housing Benefit and Council Tax Benefit regulations always provide an element for children, therefore ChB is fully taken into account except for persons who have reached pension age where ChB is fully disregarded.

4.2 The annual up-rating exercise to increase benefit rates normally takes place at the same time for both the income-related benefits and ChB. This is usually April each year. To ensure that benefit recipients do not lose out financially as a consequence of this non-alignment of the up-rating, we intend to disregard the ChB increase between January and April 09.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of 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**

- *What is being done and why*

7.1 On 24th November 2008 the Chancellor published his Pre-Budget Report, which announced additional steps to eradicate child poverty. One of these steps is to bring forward the ChB annual up-rating by 3 months to January 2009. The new rates have also been published and from 5<sup>th</sup> January 2009 ChB will increase from £18.80 to £20.00 per week for the first child, an increase of £1.20 and from £12.55 to £13.20 for subsequent children, an increase of £0.65. The annual up-rating exercise for the income-related benefits will take place 3 months later in April 2009.

7.3 The impact of this means that whilst people will see an increase in their ChB rates, without amendments to the relevant legislation income-related benefit customers would not see that increase, because ChB is taken fully into account when assessing benefit entitlement. Neither would benefit customers see a corresponding increase to the child personal allowance to offset the increase in ChB until April 2009.

7.4 It is therefore proposed that the increase in ChB between January and April 2009 will be disregarded in the income-related benefits.

- *Consolidation*

7.2 It is not intended to consolidate the regulations. A consolidated text will in due course be available online via the DWP website. It is accessible to the public free of charge and can be accessed through the following link:  
<http://www.dwp.gov.uk/advisers>

## **8. Consultation outcome**

8.1 The Social Security Advisory Committee agreed these regulations should not be referred for consultation. Representatives of the Local Authority Associations were similarly consulted and all were supportive of the change. No further consultation is required or was considered necessary.

## **9. Guidance**

9.1 Guidance on the changes made by these regulations will be provided to Decision Makers as soon as possible.

## **10. Impact**

10.1 A full impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities and voluntary bodies.

10.2 The impact on the public sector is negligible.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 There are no plans to perform further monitoring.

## **13. Contact**

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