

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (QUALIFYING CHILD CARE) REGULATIONS 2015

2015 No. 346

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 With effect from 1 April 2015, this instrument provides an amendment to section 318B(3) of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). It amends the current references to 'blind' as being 'certified as severely sight impaired or blind by a consultant ophthalmologist'.

2.2 The amendment removes any requirement for registration in line with related schemes.

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

3.1 None.

4. Legislative Context

4.1 This Order is made by Her Majesty's Treasury under section 318D(2) ITEPA.

4.2 Section 318B sets out when a child is considered to be disabled. Disability increases the length of time that the tax exemption and corresponding National Insurance (NICs) disregard may apply from the end of the first week in the September following a child's fifteenth birthday until that of their sixteenth birthday.

4.3 A child is treated as disabled if they are entitled to a disability living allowance or personal independence payment, if they are registered as blind, or if they ceased being registered as blind within the previous 28 weeks. Registration requirements for blind children are set out in section 318B(3)(b) for England & Wales, Scotland and Northern Ireland respectively.

4.4 Implementation of the provisions of the Care Act 2014 means that current definitions and the requirement for registration have been reconsidered. As a result, a single definition has been introduced which removes the registration requirement and better reflects medical practice relating to the disability concerned. Similar amendments have recently been made to legislation dealing with Working Tax Credit (S.I. 2014/2924) and

Universal Credit (S.I. 2014/2888). This amendment brings the position under ITEPA into line with related schemes.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Exchequer Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Income Tax (Qualifying Child Care) Regulations 2015 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 The changes are consistent with those that have already been made to related schemes.

7.2 The current reference to section 29 of the National Assistance Act 1948 will become otiose. It is also noted that this legislation did not apply to children under the age of 18.

8. Consultation outcome

8.1 Consultation was not appropriate. This amendment simply brings the provisions in the Income Tax (Earnings and Pensions) Act 2003 into line with other childcare related tax matters.

9. Guidance

9.1 The relevant HMRC guidance will be amended in line with these regulations.

10. Impact

10.1 No impact on business, charities or voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

11. Regulating small business

11.1 There is no change to how the legislation applies to small business.

12. Monitoring and Review

12.1 This policy will be monitored and assessed alongside other measures in the Government's package of personal tax and benefits changes.

13. Contact

Su McLean-Tooke at HM Revenue and Customs Tel: 03000 586404 or email employmentincome.policy@hmrc.gsi.gov.uk can answer any queries regarding this instrument.