

**EXPLANATORY MEMORANDUM TO**  
**THE CHILD BENEFIT (GENERAL) (AMENDMENT) REGULATIONS 2023**

**2023 No. 533**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument makes amendments to the Child Benefit (General) Regulations 2006 (S.I. 2006/223). These amendments will ensure that those persons who left Sudan in connection with the violence which rapidly escalated on 15 April 2023 in Khartoum and across Sudan are exempt from the requirement to have been living in the United Kingdom (UK) for at least three months before becoming entitled to Child Benefit.

**3. Matters of special interest to Parliament**

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

- 3.1 This instrument breaches the 21-day rule. The Chief Secretary to the Treasury believes that this is necessary because of the sudden and unexpected nature of the situation in Sudan and the urgent need to provide support to those arriving from Sudan. Delay in the legislation coming into force will cause potential delays in access to benefits.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

- 6.1 Entitlement to Child Benefit depends on a person meeting a series of conditions, including: the person must be physically present, ordinarily resident, have a right to reside, and since 2014 have been living in the UK for at least three months (the living in the UK test) before qualifying for Child Benefit. This is set out in regulation 23(5) and regulation 27(4) of the Child Benefit (General) Regulations 2006 for the purposes of section 146(2) of the Social Security Contributions and Benefits Act 1992, and section 142(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

- 6.2 Regulation 23(6) and regulation 27(5) of the Child Benefit (General) Regulations 2006 set out a list of exceptions to the requirement to meet the living in the UK test. This regulation will provide a further exception for those persons who left Sudan following the outbreak of conflict on 15 April 2023.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Those arriving from Sudan would ordinarily need to satisfy the living in the UK test to be entitled to Child Benefit. This states a person must be physically present, ordinarily resident, have a right to reside, and since 2014 have been living in the UK for at least three months before qualifying for Child Benefit.
- 7.2 To ensure that those arriving from Sudan can access the full support available to them from day one, these regulations will exempt those arriving from Sudan in connection with the escalation in violence from the living in the UK test. This will mean that they are able to access Child Benefit immediately.
- 7.3 Exempting from residence tests has previously been done in exceptional situations such as the regulations brought forward in 2006 in response to the situation in Lebanon, in 2021 in response to the collapse of the Afghan government, and 2022 in response to the Russian invasion of Ukraine.

### *Explanations*

#### What did any law do before the changes to be made by this instrument?

- 7.4 Individuals must meet the living in the UK test before they can be entitled to Child Benefit. This means that individuals must be resident in the UK for three months before they are entitled to Child Benefit unless there is a specific exemption in place which covers their circumstances (for example for those with refugee status). Prior to the law change in this instrument, those who are now being exempted would have been required to reside in the UK for three months before claiming Child Benefit as they would not qualify under an existing exemption.

#### Why is it being changed?

- 7.5 In recognition of (and in response to) the very sudden and difficult situation caused by the violence which rapidly escalated on 15 April 2023 in Khartoum and across Sudan, it is the UK Government's policy to assist those arriving in the UK and to ensure that they receive the support they need. Some of that support – such as access to benefits – may be needed very quickly upon arrival to the UK. As such, these regulations will exempt relevant people from the living in the UK test for Child Benefit, so as to enable them to access Child Benefit immediately.

#### What will it now do?

- 7.6 This instrument will exempt persons who have left Sudan in connection with the escalation of violence on 15 April 2023, and who were residing in Sudan before 15 April 2023, from the living in the UK test. This will mean they can access Child Benefit immediately.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

9.1 There are no plans to consolidate any of the regulations which are amended by this instrument.

## **10. Consultation outcome**

10.1 These Regulations will be formally referred to the Social Security Advisory Committee as soon as practicable after the date on which they have been made.

## **11. Guidance**

11.1 The provisions of these amending regulations will be reflected in guidance for individuals and the staff technical manual.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on business.

## **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 The Treasury is committed to monitoring the impacts of its policies and will use evidence from a number of sources on the experiences and outcomes of the affected groups. The Treasury will aim to review the impacts of all policies regarding access to HMRC benefits on a routine basis in consultation with other relevant government departments. The Treasury will continue to consider the intersections of Treasury policy with other departments' policies.

14.2 The instrument does not include a statutory review clause as the regulation does not make regulatory provision in respect of a business.

## **15. Contact**

15.1 Maariyah Syeda, HMRC, email: [maariyah.syeda@hmrc.gov.uk](mailto:maariyah.syeda@hmrc.gov.uk) can be contacted with any queries relating to this instrument.

15.2 Edmund Hair, Deputy Director for National Insurance Policy, International and Student Finance, at HMRC, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon John Glen MP, Chief Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.