



Statutory Document No. 29/07

THE SOCIAL SECURITY ACT 2000

THE CHILD BENEFIT ACT 2005 (APPLICATION) ORDER 2007

Approved by Tynwald

20th February 2007

Coming into operation in accordance with Article 1

In exercise of the powers conferred on the Department of Health and Social Security by section 1 of the Social Security Act 2000(a), and of all other enabling powers, the following Order is hereby made: -

Citation and commencement

1. (1) This Order may be cited as the Child Benefit Act 2005 (Application) Order 2007 and shall, subject to section 2(1) of the Social Security Act 2000, come into force as provided for in paragraphs (2) and (3).

(2) This article and articles 2 and 3 shall come into force forthwith.

(3) Each of the provisions of the applied legislation shall be deemed to have come into force on 10th April 2006.

Interpretation

2. (1) In this Order "the applied legislation" means -

- (a) sections 1, 3, 4, 6 and 7 of; and
- (b) Schedules 1 and 2 to,

the Child Benefit Act 2005 (an Act of Parliament)(b).

(a) 2000 c.5; (b) 2005 c.6.

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(2) Unless the context otherwise requires -

- (a) any reference in any of the applied legislation to any provision in an instrument of a legislative character which is not itself a provision of any of the applied legislation shall be construed as if the provision so referred to had been in force in the Island from the date on which that instrument of a legislative character had effect in Great Britain;
- (b) reference in any legislation applied by this Order to any provision of any such legislation or of any other legislation applied to the Island by an order under section 1 of the Social Security Act 2000 or section 1 of the Pension Schemes Act 1995(a) (Acts of Tynwald) shall be construed as a reference to that legislation as it has effect in the Island.

Application to the Island of the applied legislation

3. The applied legislation, as modified and shown in the Schedule to this Order, shall apply to the Island as part of the law of the Island.

(a) 1995 c.11.

SCHEDULE

This Schedule sets out the text of sections 1, 3, 4, 6 and 7 of, and Schedules 1 and 2 to, the Child Benefit Act 2005 (an Act of Parliament) with such exceptions, adaptations and modifications made where necessary.

Note: modifications subject to which the legislation is applied to the Island are in *bold italic* type.

Child Benefit Act 2005

2005 Chapter 6

Persons for whom child benefit may be claimed

1. (1) In section 141 of the Social Security Contributions and Benefits Act 1992¹ (which provides that, subject to what follows, a person is entitled to child benefit in respect of each child for whom he is responsible)-

- (a) after "one or more children" insert "or qualifying young persons", and
- (b) for "child or each of the children" substitute "child or qualifying young person, or each of the children or qualifying young persons,".

(2) For section 142 of that Act (which defines as a child for the purposes of child benefit a person who is under 16, or is under 18 and not in full-time education but satisfies prescribed conditions, or is under 19 and in full-time education) substitute-

““Child” and “qualifying young person”

142. (1) For the purposes of this Part of this Act a person is a child if he has not attained the age of 16.

(2) In this Part of this Act “qualifying young person” means a person, other than a child, who -

- (a) has not attained such age (greater than 16) as is prescribed by regulations, and
- (b) satisfies conditions so prescribed.”

(3) Schedule 1 contains amendments consequential on this section.

Persons for whom child benefit may be claimed: Northern Ireland

2. *Omitted.*

Repeals

3. Schedule 2 contains repeals of enactments.

¹ 1992 c.4 (see S.D. 505/94).

Financial provision

4. There is to be paid out of money provided by *Tynwald or out of the Manx National Insurance Fund (as the case may be)* any increase attributable to this Act in the sums which under any other Act are payable out of money so provided.

Extent

5. *Omitted.*

Commencement

6. This Act *shall be deemed to have* come into force *on* 10th April 2006.

Short title

7. This Act may be cited as the Child Benefit Act 2005.

SCHEDULES

SCHEDULE 1

Section 1

CONSEQUENTIAL AMENDMENTS

Social Security Contributions and Benefits Act 1992 (c. 4)

1. The Social Security Contributions and Benefits Act 1992 is amended as follows.

2.

(1) Section 37 (widowed mother's allowance) is amended as follows.

(2) In subsection (1)(a), after "a child" insert "or qualifying young person".

(3) In subsection (2), after-

(a) "A child",

(b) "the child", in both places, and

(c) "a child", in both places,

insert "or qualifying young person".

3.

(1) Section 39A (widowed parent's allowance) is amended as follows.

(2) In subsection (2)(a), after "a child" insert "or qualifying young person".

(3) In subsection (3), after-

(a) "A child",

(b) "the child", in both places, and

(c) "a child", in both places,

insert "or qualifying young person".

4.

(1) Section 77 (guardian's allowance) is amended as follows.

(2) In subsection (1), after-

(a) "a child", and

(b) "that child",

insert "or qualifying young person".

- (3) In subsection (2), for "child's parents", in each place, substitute "parents of the child or qualifying young person".
- (4) In subsection (3)-
 - (a) after "child" insert "or qualifying young person", and
 - (b) for "child's parent's" substitute "parents of the child or qualifying young person".
- (5) In subsection (4), after "child" insert "or qualifying young person".
- (6) In subsection (5), after "child", in both places, insert "or qualifying young person".
- (7) In subsection (7), after "child" insert "or qualifying young person".
- (8) In subsection (8)-
 - (a) after "child", in both places, insert "or qualifying young person", and
 - (b) for "a child's parents" substitute "the parents of a child or qualifying young person".
- (9) In subsection (9), after "child" insert "or qualifying young person".
- (10) In subsection (10), after "child" insert "or qualifying young person".
- (11) In subsection (11), after "child", in both places, insert "or qualifying young person".
5. In section 82(4) (increase in maternity allowance)-
 - (a) after "nor a child" insert "or qualifying young person", and
 - (b) for "a child or children" substitute "one or more children or qualifying young persons".
6.
 - (1) Section 85 (increase in retirement pension) is amended as follows.
 - (2) In subsection (2)-
 - (a) after "nor a child" insert "or qualifying young person", and
 - (b) for "a child or children" substitute "one or more children or qualifying young persons".
 - (3) In the heading, after "children" insert "or qualifying young persons".
7.
 - (1) Section 114 (persons maintaining dependants etc.) is amended as follows.
 - (2) In subsection (1), after "child" insert "or qualifying young person".
 - (3) In subsection (3), after "children" insert "or qualifying young persons".
8.
 - (1) Section 122(1) (Parts 1 to 6: interpretation) is amended as follows.

(2) For the definition of "child" substitute-
"“child” has the same meaning as in Part 9 of this Act;”.

(3) Insert at the appropriate place-

““qualifying young person” has the same meaning as in Part 9 of this Act;”.

9.

(1) Section 143 (child benefit: person responsible for child) is amended as follows.

(2) In subsection (1), after "child", in each place except in the phrase "child benefit", insert "or qualifying young person".

(3) In subsection (2), after "child", in both places, insert "or qualifying young person".

(4) In subsection (3)-

(a) for "child's" substitute "fact that the child or qualifying young person is",

(b) in paragraph (a), for "full-time education by attendance at a recognised educational establishment" substitute "education or training of a description prescribed by regulations",
and

(c) in paragraph (c), omit "being,".

(5) In subsection (4)-

(a) after "any child" and "for the child" insert "or qualifying young person", and

(b) for "of the child" substitute "of him".

(6) In subsection (5), after "child", in both places, insert "or qualifying young person".

(7) In the heading, for "child" substitute "child or qualifying young person".

10.

(1) Section 144 (child benefit: exclusions and priority) is amended as follows.

(2) Omit subsection (1).

(3) In subsection (2), omit "in other cases".

(4) In subsection (3), after "same child" insert "or qualifying young person".

11. In section 145(2) (different rates of child benefit by reference to age of child), after "child" insert "or qualifying young person".

12.

(1) Section 145A (entitlement to child benefit after death of child) is amended as follows.

(2) In subsection (1), after-

(a) "a child", and

(b) "the child",

insert "or qualifying young person".

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- (3) In subsection (4), after “a child” insert “or qualifying young person”.
- (4) In the heading, after “child” insert “or qualifying young person”.
- 13.
- (1) Section 146 (child benefit: *persons outside the Isle of Man*) is amended as follows.
- (2) In subsection (1), after “a child” insert “or qualifying young person”.
- (3) In subsection (3)-
- (a) for “a child or other” substitute “any”, and
 - (b) for “this section” substitute “subsection (1) or (2) above”.
- 14.
- (1) Section 147 (child benefit: interpretation and supplementary) is amended as follows.
- (2) In subsection (1), omit the definition of “recognised educational establishment”.
- (3) In subsection (3), after “child” insert “or qualifying young person”.
- 15.
- (1) Part 5 of Schedule 4 (rates of industrial injuries benefits) is amended as follows.
- (2) In paragraphs 1 and 4, in the second column, in paragraph (a), omit “child or adult”.
- (3) In paragraph 12-
- (a) in the first column, after “children” insert “and qualifying young persons”, and
 - (b) in the second column, for “qualifying child” substitute “child or qualifying young person”.
- 16.
- (1) Schedule 7 (industrial injuries benefits) is amended as follows.
- (2) In paragraph 4-
- (a) in sub-paragraph (1), for “a child or children” substitute “one or more children or qualifying young persons”, and
 - (b) in sub-paragraph (4), after “child”, in both places, insert “or qualifying young person”,
and in the heading before that paragraph, after “children” insert “and qualifying young persons”.
- (3) In paragraph 5(1), after “child”, in each place, insert “or qualifying young person”.
- (4) In paragraph 6(1)-
- (a) after “nor a child” insert “or qualifying young person”, and
 - (b) for “a child or children” substitute “one or more children or qualifying young persons”.
- (5) In paragraph 16(2)(a), after “children” insert “or qualifying young persons”.

- (6) In paragraph 18-
- (a) for "a child or children" substitute "one or more children or qualifying young persons",
 - (b) after "that child", in each place, insert "or qualifying young person", and
 - (c) after "those children", in each place, insert "or qualifying young persons",
- and in the heading before that paragraph, for "Children of deceased's" substitute "Deceased's".
- (7) In paragraph 19, after "child", in each place, insert "or qualifying young person"; and in the heading before that paragraph, after "children" insert "and qualifying young persons".
- 17.
- (1) Schedule 9 (exclusions from entitlement to child benefit) is amended as follows.
 - (2) In paragraph 1, after-
 - (a) "a child", and
 - (b) "the child",
 insert "or qualifying young person"; and, in the heading before it, after "Children" insert "and qualifying young persons".
 - (3) Omit paragraph 2 (and the heading before it).
 - (4) In paragraph 3, after "a child" insert "or qualifying young person"; and, in the heading before it, after "Children" insert "and qualifying young persons".
- 18.
- (1) Schedule 10 (priority between persons entitled to child benefit) is amended as follows.
 - (2) In paragraph 1(1), after-
 - (a) "a child", and
 - (b) "that child",
 insert "or qualifying young person".
 - (3) In the heading before paragraph 2, after "child" insert "or qualifying young person".
 - (4) In paragraph 4, after "child", in both places, insert "or qualifying young person".

Social Security Administration Act 1992 (c. 5)

19. The Social Security Administration Act 1992 is amended as follows.
- 20.
- (1) Section 13 (necessity of application for child benefit) is amended as follows.
 - (2) In subsection (1C), after "children" insert "or qualifying young persons".
 - (3) In subsection (2), after "same child" insert "or qualifying young person".
21. In section 73(2)(c) and (5)(c) (overlapping benefits), omit "child or adult".

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22. In section 80 (child benefit: overlap with benefits under legislation of other member States), after “any child” insert “or qualifying young person”.
 23. In section 155(6) (effect of alteration of rates of benefit), after “child” insert “or qualifying young person”.
 24. In section 157(2) (effect of alteration of rates of child benefit), after “a child”, in both places, insert “or qualifying young person”.
 25. In section 158(1) (treatment of excess benefit as paid on account of child benefit), after-
 - (a) “a child”, and
 - (b) “of the child”, in both places,insert “or qualifying young person”.

Social Security Act 1998 (c. 14)

26. In section 18(2) of the Social Security Act 1998 (regulations about decisions), after-
 - (a) “a child”, and
 - (b) “the child”,insert “or qualifying young person”.

SCHEDULE 2

Section 3

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Social Security Contributions and Benefits Act 1992 (c. 4)	<p>In section 143(3)(c), the word “being.”</p> <p>In section 144 subsection (1) and, in subsection (2), the words “in other cases”.</p> <p>In section 147(1), the definition of “recognised educational establishment”.</p> <p>In Schedule 4, in Part 5, in paragraphs 1 and 4, in the second column, in paragraph (a), the words “child or adult”.</p> <p>In Schedule 9, paragraph 2 (and the heading before it).</p>
Social Security Administration Act 1992 (c. 5)	In section 73(2)(c) and (5)(c), the words “child or adult”.

Made

19th December 2006



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order applies to the Isle of Man those provisions of the United Kingdom Child Benefit Act 2005 (“the Act”) appropriate to the Isle of Man.
2. All of the provisions applied by the Order shall be deemed to have come into force on 10th April 2006.
3. The provisions of the legislation applied by the Order are explained below.
4. *The Child Benefit Act 2005 – an introduction*
- 4.1 The purpose of the Act is to amend 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 also extends support to 19 year olds completing a course of learning begun before they reached that age.
5. **Section 1 and Schedule 1 - Persons for whom child benefit may be claimed**
- 5.1 Section 1 of the Act amends the provisions which identify the persons in respect of whom child benefit is payable. Previously 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 Social Security Contributions and Benefits Act 1992 (“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.
- 5.2 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.
- 5.3 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.
- 5.4 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. Regulations may prescribe 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.
- 5.5 Section 1(3) provides for the amendments set out in 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.
- 5.6 Schedule 1 to the Act amends references to a child or children in the Contributions and Benefits Act to include references to a qualifying young person or qualifying young persons.

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- 5.7 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.
- 5.8 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.
6. **Section 3 and Schedule 2 - Repeals**
- 6.1 Section 3 and Schedule 2 provide for the repeal of certain provisions which are no longer to have effect.
7. **Financial provision**
- 7.1 Section 4 relates to the financial provision of the Act.
8. **Commencement**
- 8.1 The Act shall be deemed to have come into force on 10th April 2006 (see section 6).
9. **Short title**
- 9.1 Section 7 provides that the Act's short title is the "Child Benefit Act 2005".

