

SAVINGS ACCOUNTS AND HEALTH IN PREGNANCY GRANT ACT 2010

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Savings Accounts and Health in Pregnancy Grant Act 2010 which received Royal Assent on 16 December 2010. They have been prepared by HM Treasury in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

Child Trust Funds

3. This Act removes eligibility to Child Trust Funds for children born from January 2011 onwards.
4. The Child Trust Fund (CTF) was introduced in 2005. All children born on or after 1 September 2002 who are in a Child Benefit award or in local authority care, live in the UK and are not subject to immigration control, are currently entitled to a CTF. Between the introduction of the CTF and August 2010, the Government contributed £250 to the CTF account at birth, with an additional payment of £250 for children from lower income families. Children in the care of local authorities got a total of £500. Payments of the same amounts were again contributed to CTFs by the Government when the child attained the age of seven, and additional annual payments into CTFs have been made for disabled children who are entitled to Disability Living Allowance on or after 6 April 2009.
5. On 24 May 2010, the Government announced that it would pass legislation to end CTF payments, to help reduce the United Kingdom's budget deficit. The Government announced that:
 - from August 2010 government payments at birth would be reduced and payments at age seven would stop, and
 - from January 2011, all payments would stop.

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6. The reason for this two-phase approach is that some government payments to CTFs (the starting payments to all, and the additional payments to children in lower income families) can only be stopped through primary legislation, although secondary legislation can reduce the amount of such payments. However, other government payments to CTF accounts, such as that made when a child attains the age of seven or the disability payments, can be stopped altogether through secondary legislation.

7. Regulations made on 22 July 2010 implemented the first phase (see the Child Trust Funds (Amendment No 3) Regulations 2010 (SI 2010/1894)). They reduced all the starting payments from August 2010: the universal payment of £250 was reduced to £50, the additional payment to lower income families was reduced from £250 to £50 and the special payment to children in care was reduced from £500 to £100. They stopped age seven payments altogether from August 2010. They also stopped the extra payments made to disabled children's CTF accounts with effect from April 2011.

8. This Act implements the second phase: stopping all government payments altogether. It does this by making provision for the removal of eligibility to a CTF from children born after 2 January 2011 and from certain children who would otherwise become eligible on or after that date. Children no longer eligible because of the Act's provisions, once they come into effect, will not receive a CTF voucher from Her Majesty's Revenue and Customs (HMRC) to start a CTF account. They will not be entitled to a CTF account and will not be eligible for any government payments.

Saving Gateway

9. The Act also repeals the legislation providing for the establishment of a Saving Gateway scheme. The Saving Gateway was to be a tax-free cash saving account available to people in receipt of qualifying social security or tax credit awards. At the end of the two year maturity period for a Saving Gateway account, the Government would have made a contribution for each pound that had been saved. Saving Gateway accounts were due to have been available from July 2010.

10. In the Budget on 22 June 2010, the Government announced that the Saving Gateway was not affordable given the need to reduce the Budget deficit, and would therefore not be introduced. This Act therefore repeals the relevant primary legislation.

11. In most respects, the Saving Gateway legislation has not been commenced. No Saving Gateway accounts have been opened; no individuals have been advised that they are eligible for an account and no account providers have been approved to offer Saving Gateway accounts.

Health in Pregnancy Grant

12. The Act also removes entitlement to the health in pregnancy grant where a woman reaches the 25th week of her pregnancy on or after 1 January 2011.

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13. The health in pregnancy grant was introduced in April 2009; it is a lump sum payment to almost all expectant women, made once they satisfy prescribed conditions as to the stage of their pregnancy, having received appropriate maternal health advice from health professionals. Entitlement also relies upon a woman being in the United Kingdom at the time of her claim to the grant. The conditions in which a person is to be treated as being, or not being, in the United Kingdom are prescribed in regulations. The health in pregnancy grant is not a taxable benefit.

14. The Government announced as part of the Budget, on 22 June 2010, that the health in pregnancy grant would be abolished.

TERRITORIAL EXTENT AND APPLICATION

15. Sections 2(2) and 3(1) of the Act extend to England and Wales and Scotland only, and sections 2(3) and 3(2) extend to Northern Ireland only. The rest of the Act extends to the whole of the United Kingdom. Section 2(3) has a notional effect on the functions of Northern Ireland Ministers.

16. The repeal of the Saving Gateway Accounts Act 2009 requires the consent of the Northern Ireland Assembly in accordance with the principles set out in the Memorandum of Understanding between the Government and the Assembly. A Legislative Consent Motion was passed by the Assembly on 15 December 2010.

17. The Act does not contain any provisions falling within the terms of the Sewel Convention.

18. The Act has no effect on the functions of the Welsh Ministers or the competence of the National Assembly for Wales.

COMMENTARY

Section 1: Removal of eligibility for child trust fund

19. Section 1 provides for amendments to section 2 of the Child Trust Funds Act 2004 (“CTFA”) with the effect that children born on or after 3 January 2011 will not be eligible for a CTF. Section 2 of the CTFA makes provision for who is an ‘eligible child’ for the purposes of that Act and provides that for a child to be eligible for a CTF the following conditions must be satisfied:

- the child must be born after 31 August 2002; and
- either a person is entitled to Child Benefit in respect of that child (“a Child Benefit child”) or the child is a child in local authority care (“a looked-after child”); and
- the child must not be subject to immigration control.

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20. *Subsection (2)* of section 1 of the Act amends section 2(1) of the CTFA so as to require all eligible children to be born before 3 January 2011. *Subsection (3)* of the section inserts into section 2 of the CTFA new subsections (5A), (5B) and (5C). New section 2(5A) CTFA will provide that a child born before 3 January 2011 who would otherwise become eligible to a CTF on or after that date may not be an eligible child unless either new subsection (5B) or (5C) applies.

21. New subsection (5B) provides that a child born before 3 January 2011 will still be an eligible Child Benefit child, even when eligibility under the provisions in section 2 CTFA does not arise until after that date, provided:

- entitlement to Child Benefit in relation to that child commences on or before 3 January 2011; and
- the child is not subject to immigration control at the beginning of 3 January 2011 or is so subject at that time but immigration control is subsequently lifted before 3 April 2011.

22. The first bullet point in paragraph 21 above reflects the processes involved in the claiming of Child Benefit and the fact that Child Benefit entitlement can only commence on a Monday and can only be backdated for up to three months. Thus, for example, a child born on 31 December 2010 (or indeed any date in the week up to and including 2 January 2011) can only become entitled to Child Benefit from the week commencing Monday 3 January 2011, being the first Monday after birth. (This can only happen if a claim is made within 3 months of the Monday following birth.) Similarly, if a child is born outside the UK and comes to the UK before 3 January 2011 (say on 2 January 2011) and Child Benefit is claimed for that child within 3 months, Child Benefit entitlement will commence on or before 3 January 2011.

23. The second bullet point in paragraph 21 above reflects the fact that a child who is subject to immigration control is not an eligible child for CTF purposes, even though Child Benefit may be being received in respect of that child. To provide parity with the Child Benefit regime, which allows a claim for Child Benefit to be backdated three months, the same window of three months will apply to such children born before 3 January 2011. This means that where immigration control is lifted within three months of 3 January 2011, i.e. before 3 April 2011 (and thus a child becomes an eligible Child Benefit child by that date) they will still be entitled to a CTF so long as they are born before 3 January 2011.

24. Subsection (5C) provides that a looked-after child born before 3 January 2011 will still be an eligible looked-after child if:

- the child is in the UK at the beginning of 3 January 2011;
- the child becomes a looked-after child before 3 April 2011; and

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- the child is not subject to immigration control at the beginning of 3 January 2011 or is so subject but immigration control is lifted (and so would otherwise be eligible) by 3 April 2011.

25. The requirement that the child becomes a looked-after child before 3 April 2011 provides parity with the Child Benefit child (who will not become entitled to a CTF until an award of Child Benefit is made which, as explained above and because of the way the Child Benefit regime operates, may not be until 2 April 2011) and also with children who become Child Benefit children if immigration control is lifted before 3 April 2011 (as discussed in paragraph 23 above). A child who first becomes entitled to a CTF by virtue of being a looked-after child becomes an eligible looked-after child at the date that he or she is taken into care.

Section 2: Repeal of Saving Gateway Accounts Act 2009

26. Section 2 of the Act repeals the legislation that provides for Saving Gateway accounts.

27. *Subsection (1)* of section 2 repeals the Saving Gateway Accounts Act 2009, which received Royal Assent on 2 July 2009. This Act set out conditions of eligibility for the Saving Gateway and imposed duties on HMRC to issue notices to people who are eligible for the Saving Gateway, and to pay any government contribution due under the scheme. The Act also included additional provisions covering such matters as tax relief, the use of information, a requirement for review of the effect of the Saving Gateway, penalties, and arrangements for appeals against decisions taken by HMRC.

28. This Act also conferred regulation-making powers on HM Treasury. The Saving Gateway Accounts Regulations 2009 (SI 2009/2997) and the Saving Gateway Accounts (No.2) Regulations 2009 (SI 2009/2998) were made under these powers. These Regulations have not been brought into force.

29. The only parts of the Saving Gateway Accounts Act 2009 that have been brought into force are:

- *Sections 4(1) and 5(1) – concerning formal approval of Saving Gateway account providers.* Despite being brought into force from January 2010, these provisions have not been used. No applications for approval as a Saving Gateway account provider have been approved or rejected by HMRC under powers granted by these sections.
- *Section 18 – concerning the Disclosure of Information by the Department for Work and Pensions (DWP) and the Department for Social Development (DSD) in Northern Ireland.* This provision was used by HMRC as the basis for pre-launch testing of data and information processes with DWP and DSD.

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- *Section 23(1)(a) and sections 24 and 25 in so far as those sections concern appeals in relation to the formal approval (or non-approval) of Saving Gateway account providers. Despite being brought into force from January 2010, these provisions have not been used. No applications for approval as a Saving Gateway account provider have been approved or rejected by HMRC. Therefore no appeal against an HMRC decision could have taken place under these sections.*

30. *Subsections (2) and (3) remove the effect of section 18 of the Saving Gateway Accounts Act 2009 on the Social Security Administration Act 1992 and the Social Security Administration (Northern Ireland) Act 1992. Section 18 enabled information held by DWP and DSD to be supplied to HMRC for the purposes of the Saving Gateway. The supply of this information was necessary for the operation of the Saving Gateway, as eligibility for an account was to be conferred on people entitled to certain social security benefits administered by DWP and DSD.*

31. *Subsection (4) anticipates what would have been the effect of section 27 of the Saving Gateway Accounts Act 2009 on the Northern Ireland Act 1998. Section 27 would have inserted a reference to Saving Gateway accounts into Schedule 2 to the 1998 Act, making this an excepted matter for the purposes of the devolution settlement in Northern Ireland, and therefore outside the competence of the Northern Ireland Assembly. This subsection will ensure that no reference to Saving Gateway will be inserted in the 1998 Act.*

32. *Subsection (5) removes a reference to the Saving Gateway from the Corporation Tax Act 2010. Paragraph 705 of Schedule 1 to this Act had amended section 9(2) of the Saving Gateway Accounts Act 2009 (concerning Saving Gateway account statements) to replace the reference to the Income and Corporation Taxes Act 1988 with a reference to the Corporation Tax Act 2010. As the Saving Gateway is not proceeding, this update to the Act is no longer required.*

Section 3: Removal of entitlement to health in pregnancy grant

33. *Section 3 of the Act amends section 140A of the Social Security Contributions and Benefits Act 1992 and section 136A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 so as to remove entitlement to a health in pregnancy grant from women UK-wide who reach the 25th week of their pregnancy on or after 1 January 2011.*

Section 4: Short title, commencement and extent

34. *Section 4 of the Act provides for the short title to the Act, commencement and extent.*

COMMENCEMENT DATES

49. *Subsections (2) and (3) of section 4 provides for commencement of the Act. It will have effect as follows.*

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Child Trust Fund

50. On **3 January 2011** the removal of CTF eligibility comes into effect. However, a period of three months, until **2 April 2011**, is provided for children born and in the United Kingdom before 3 January 2011 to become eligible to a CTF. So, to be eligible to CTF a child must be born and in the United Kingdom before 3 January and additionally:

- a claim for Child Benefit must be made, or the child must go into the care of a local authority, on or before 2 April 2011, and
- if the child is subject to immigration control on 3 January 2011, that immigration control must be lifted on or before 2 April 2011.

Saving Gateway

51. Section 2 of the Act, concerning the Saving Gateway, will come into effect 2 months after Royal Assent.

Health in Pregnancy Grant

52. The health in pregnancy grant will not be payable to any woman who reaches the 25th week of her pregnancy on or after 1 January 2011.

53. However, any woman who satisfies the conditions of entitlement before 1 January 2011 will continue to be eligible to claim providing she makes her claim, in accordance with the prescribed conditions, before her baby is born.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	15 September 2010	Vol. 515 Col. 902
Second Reading	26 October 2010	Vol. 517 Cols. 204-280

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Stage	Date	Hansard reference
Committee	2 November 2010	Public Bill Committee on the Savings Accounts and Health in Pregnancy Grant Bill
	4 November 2010	
	9 November 2010	
	11 November 2010	
Report and Third Reading	22 November 2010	Vol. 519 Cols. 58-136
House of Lords		
Introduction	23 November 2010	Vol. 722 Col 1009
Second Reading	7 December 2010	Vol. 723 Cols. 128-173
Third reading	7 December 2010	Vol. 723 Col 173
Royal Assent – 16 December 2010		House of Commons Hansard Vol. 520 Col 1078
		House of Lords Hansard Vol. 723 Col 721

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