EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY PENSIONS (HOME RESPONSIBILITIES) (AMENDMENT) REGULATIONS 2005

2005 No.48

1. This explanatory memorandum has been prepared by The Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. Description

2.1 This instrument amends the Social Security Pensions (Home Responsibilities) Regulations 1994 (SI 1994/704). Where partners apply to switch Child Benefit title between themselves so that the other partner can gain Home Responsibilities Protection (HRP) for basic State Pension, they may do so within 3 months of the beginning of the tax year. The new claimant will be treated as being paid Child Benefit for HRP purposes from the beginning of the tax year notwithstanding that it was actually in payment to his partner for part of that time.

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

3.1 None

4. Legislative Background

4.1 This instrument introduces an amendment to the Home Responsibilities Protection Regulations to rectify an administrative problem which has occurred when partners apply to switch the award of Child Benefit from one to the other to enable that person to gain HRP for basic State Pension.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

Not Applicable

7. Policy background

7.1 HRP is designed to protect basic State Pension for people who are precluded from regular employment by responsibilities at home. It operates by reducing the number of qualifying years a person requires for entitlement to a full basic State Pension. HRP became effective from 6 April 1978.

7.2 It is available to persons in various caring circumstances and in particular, in the context of these regulations, to persons who throughout a complete tax year are awarded Child Benefit for a child aged under 16.

7.3 Only one member of a couple can claim Child Benefit in respect of a child. It cannot under Child Benefit legislation, be treated as paid to another person for a period in which it was correctly paid to the person with priority title – usually the mother.

7.4 Where a couple change their working patterns, it may become advantageous for the person who is not currently awarded Child Benefit to have title so that he may protect his basic State Pension entitlement through HRP.

7.5 Currently, when this situation arises, the other member of the couple must claim Child Benefit before the end of the tax year in order to qualify for HRP for the following tax year. However, it is not always operationally possible to switch Child Benefit title within the timescale. Thus HRP is lost for that year.

7.6 This amendment will allow Child Benefit to be treated as paid to the new claimant from the beginning of the tax year for HRP purposes if it is claimed within 3 months of the start of that year. This will bring it into line with the time limit for making a first Child Benefit claim.

7.7 This is a minor administrative change which is unlikely to attract public or media attention but it will remove a potential disadvantage for those who might be affected.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is a minor beneficial one.

8.3 The change imposes no cost on the National Insurance Fund.

9. Contact

Caroline Wilson at the Department for Work and Pensions Tel: 0207 962 8479 or e-mail: Caroline.wilson@dwp.gsi.gov.uk can answer any queries regarding the instrument.