

2004 No. 2676

CHILD TRUST FUNDS

The Child Trust Funds (Amendment) Regulations 2004

Made - - - - *14th October 2004*

Laid before Parliament *14th October 2004*

Coming into force in accordance with regulation 1

The Treasury, in exercise of the powers conferred upon them by sections 3(1) to (5), 5, 7, 8(1), 13, 16 and 28(1) to (4) of the Child Trust Funds Act 2004 (“the Act”)(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Child Trust Funds (Amendment) Regulations 2004 and shall come into force on the day appointed under section 27 of the Act, for the purposes of sections 8 and 9 of the Act.

Amendments to the Child Trust Funds Regulations 2004

2. The Child Trust Funds Regulations 2004(b) are amended as follows.

3. In regulation 2(1)(b) insert after the definition of “assurance undertaking”—

““Bank of England base rate” means the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets;”.

4. In regulation 6 add the following paragraph at the end—

“(5) The Inland Revenue shall write to the person who is entitled to child benefit in respect of the child (or, in the case of a child who is an eligible child because of section 2(3) of the Act, to a responsible person in relation to the child) to inform them of the opening of the account and particulars of it.”.

5. In regulation 7—

(a) in paragraph (4) for “is born” substitute “becomes an eligible child”; and

(b) add the following paragraph at the end—

“(9) The Inland Revenue shall, following final determination of entitlement to child tax credit, write to the person who is entitled to child benefit in respect of the child (or, in the case of a child who is an eligible child because of section 2(3) of the Act, to a responsible

(a) 2004 c. 6.

(b) S.I. 2004/1450; there are no previous amending regulations.

person in relation to the child) to inform them that the supplementary contribution is being paid into the child’s account.”.

6. In regulation 8(2) after sub-paragraph (h) insert—

“(ha) where the account is or has been transferred to the account provider by a transfer under regulation 21, that no charges or expenses are due in respect of that transfer, except in accordance with sub-paragraph (h);”.

7. In regulation 10—

- (a) in paragraph (2)(a) for “60” substitute “61”;
- (b) in paragraph (4)(i) for “claimed by the account provider under regulation 30” substitute “(see regulation 7) received by the account provider”;
- (c) add the following paragraph at the end—

“(5) As an alternative to the information in paragraph (4)(k), the statement may include, in relation to any management charges or other incidental expenses deducted from the account during the period in paragraph (4)(i)—

- (a) the rate, expressed as an annual percentage rate, at which, and the period in relation to which, such deductions were made, or
- (b) where such deductions were made in relation to different periods at different rates—
 - (i) each rate, expressed as an annual percentage rate, at which those deductions were made; and
 - (ii) the period in relation to which they were made at that rate.”.

8. In regulation 12(9)(b)(iii) add at the end “except in accordance with regulation 18A (terminal illness)”.

9. In regulation 13—

- (a) in paragraph (3)(b)(i) after “responsibility” insert “or, in Scotland, parental responsibilities”;
- (b) in paragraph (5)(c) add at the end “and date of birth”;
- (c) add at the end—

“(11) Where the new registered contact is the Official Solicitor or the Accountant of Court, he shall make the declaration and authorisation required by paragraphs (3)(c) and (4).”.

10. In regulation 14(3) for “prior to discussing” substitute “before commencement of completion of”.

11. In regulation 18 after paragraph (a) insert—

“(ab) in accordance with regulation 18A, or”.

12. After regulation 18 insert—

“Permitted withdrawals from an account where the child is terminally ill

18A.—(1) A person with parental responsibility (or, in Scotland, parental responsibilities) for the named child (including a local authority, but excluding a person under 16), or the named child if 16 or over, may make a claim to the Board, for withdrawals from an account to be permitted in accordance with this regulation.

(2) The claim shall be—

- (a) made in a manner prescribed by the Board, which shall include the giving of any consent necessary for the verification or consideration of the claim, and

- (b) accepted in either of the following cases:

Case 1

The child has been, or is, accepted by the Department for Work and Pensions as falling within section 72(5) of the Social Security Contributions and Benefits Act 1992(a) (special rules for terminally ill person's entitlement to care component of disability living allowance).

Case 2

Evidence that the named child is terminally ill has been supplied to the satisfaction of the Board.

(3) The Board shall issue a letter to the claimant authorising withdrawals from the account under this regulation, and shall also notify the account provider.

(4) Once a claim has been accepted, withdrawals may be made by the registered contact (on behalf of the named child, where he is not the child) at any time—

- (a) provided that, immediately following any withdrawal, a balance sufficient to keep the account open is maintained in the account, and
- (b) excepting any transfer of a policy of life insurance (as opposed to the proceeds from such a policy).

(5) Where account investments are withdrawn in a form other than sterling currency, regulation 36(1)(b) shall apply (with any necessary modifications) to any such investment immediately before it is withdrawn.

(6) In this regulation, “terminally ill” has the meaning in section 66(2)(a) of the Social Security Contributions and Benefits Act 1992.”.

13. In regulation 21—

- (a) in paragraph (3)(a) for “transferred” substitute “following the transfer”;
- (b) after paragraph (3) insert—

“(3A) Where a registered contact applies in accordance with paragraph (3) to a potential transferee for a transfer under this regulation, specifying a stakeholder account offered by the transferee, the transferee shall not decline to accept that application (or the transfer in consequence of it) except where—

- (a) the transferee has reason to believe that the registered contact has given untrue information in his application;
- (b) the transferee demonstrates to the satisfaction of the Board that acceptance of transfers, or a class of transfers, during a particular period would jeopardise his ability to prevent any of the matters mentioned in regulation 16(2)(a); or
- (c) the transferor does not give the transferee the notice in accordance with paragraph (4).”.

14. In regulation 33—

- (a) in paragraph (6) add at the end—

“;

and where sub-paragraph (c) applies, the local authority shall also send a copy of the death certificate (or other documentary evidence of death) to the Board by post.”;

- (b) add the following paragraph at the end—

“(7) As an alternative to delivering the return required by paragraph (2) by means of electronic communications, the local authority may (until this paragraph is revoked) send the return to the Board by registered post.”.

(a) 1992 c. 4.

15. In the Schedule to the Regulations—

- (a) in paragraph 2(2)(a) after sub-paragraph (vi) insert—
 - “(via) shares referred to in regulation 12(2)(a) (shares issued by a company wherever incorporated and officially listed on a recognised stock exchange);”;
- (b) in paragraph 2(2)(b)—
 - (i) insert at the beginning “the requirement is fulfilled that”, and omit “must”;
 - (ii) omit “, whether directly or indirectly”;
- (c) after paragraph 2(2)(b) insert—
 - “(ba) interest accrues on investments referred to in regulation 12(2)(k) and (l) (cash deposited in a deposit account or in a share account) on a daily basis at a rate that is not less than the Bank of England base rate minus 1 per cent per annum;
 - (bb) in relation to qualifying investments which are securities (other than in an investment trust) or a depositary interest where the relevant investments (within the meaning in that definition) are such securities, the requirement is fulfilled that—
 - (i) the securities fall within regulation 12(2)(c) or (d), or
 - (ii) where the securities fall within regulation 12(2)(b), (e) or (n), the contract under which the securities are or have been acquired, or any other transaction entered into by the registered contact or any other person, has the effect that the named child is not exposed, or not exposed to a significant extent, to the risk of loss from fluctuations in the value of the securities exceeding 20% of the capital consideration paid or payable for the acquisition of those securities, during the period when the securities in question are held in the account.”;
- (d) in paragraph 2(2)(c), insert at the beginning “the requirement is fulfilled that”, and omit “must”;
- (e) in paragraph 2(3) at the end insert—
 - “For the purposes of this sub-paragraph, those means of payment do not include payments by cash, credit card or debit card or any combination including a payment by cash, credit card or debit card.”;
- (f) in paragraph 3(5)(a) after “stamp duty reserve tax” add “, value added tax” and after “or other charges” add “(including any dilution levy)”;
- (g) after paragraph 3(5)(a) insert—
 - “(aa) where any amount of tax is paid or anticipated to be payable in respect of income received or capital gains realised by the account provider in respect of investments held for the purposes of the account, the amount so deducted or anticipated;”.

*Derek Twigg
John Heppell*

14th October 2004

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Trust Funds Regulations 2004 (S.I. 2004/1450: “the main Regulations”) which provide for the setting up of Child Trust Fund accounts. It is intended that they will be brought into force in April 2005. The main effect of the amendments is to allow early withdrawals from accounts before the child reaches 18 where he or she is terminally ill. There are also technical amendments and adjustments to the main Regulations.

Regulation 1 provides for citation and commencement.

Regulations 2 to 11, 13 and 14 provide for technical amendments to the main Regulations (most of which have been the subject of consultation with the financial services industry). It is intended that the provision made by regulation 14(b) will be temporary, hence the inserted provision signals that it will be revoked in future.

Regulation 12 makes provision for early withdrawals from accounts of terminally ill children.

Regulation 15 makes amendments to the provisions for stakeholder accounts. The main amendments are to exclude direct holdings in shares, to specify a minimum rate of interest on cash in deposit or share accounts, and to introduce safeguards for investments in securities.

A full Regulatory Impact Assessment was prepared and issued on the introduction to Parliament of the Child Trust Funds Bill (passed as the 2004 Act) in November 2003.

STATUTORY INSTRUMENTS

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