

THE CHILD TRUST FUNDS (AMENDMENT NO 2) REGULATIONS

In Budget 2003 the Chancellor announced the introduction of the Child Trust Fund (CTF) and that accounts would be available from April 2005. Children born from 1 September 2002 will be eligible for accounts if a child benefit award has been made for them and they are living in the UK.

The Child Trust Fund will:

- help people understand the benefits of saving and investing;
- encourage parents and children to develop the savings habit and engage with financial institutions
- ensure that in future all children have a financial asset at the start of adult life to invest in their future; and
- build on financial education to help people make better financial choices

The Child Trust Funds Act 2004 received Royal Assent on 13 May 2004. This Act gives the Treasury power to make regulations in connection with various aspects of the CTF. The main CTF regulations, The Child Trust Fund Regulations 2004 (SI 2004/ 1450) were laid on 27 May 2004. Amending regulations The Child Trust Fund (Amendment) Regulations 2004 (SI 2004/ 2676) were laid on 14 October 2004.

Further amending regulations have now been laid on 21 December. These provide for the role of the Official Solicitor and in Scotland the Accountant of Court in managing the CTF accounts of those looked after children who have no one with parental responsibility. The amending regulations also make some small changes to the main regulations.

The attached commentary provides the detail of these regulations and also gives some background information on the role of the Official Solicitor and the Accountant of Court.

Guidance notes for providers of CTF accounts are available on the Inland Revenue website at www.inlandrevenue.gov.uk/ctf/htm.

Role of the Official Solicitor and Accountant of Court

1. Only a person with parental responsibility for a child can manage that child's CTF account until a child is 16. Once a child is 16 only they can instruct on the management of their CTF account.
2. For the vast majority of looked after children there is a person with parental responsibility who is able to manage their CTF account for them, even if they are not currently living with them. However, there are a few circumstances where there is no one with parental responsibility (e.g. orphans with no legal guardian) or there is a person with parental responsibility but it would not be appropriate for them to manage the CTF account (e.g. where contact is not allowed due to abuse). The number of children that fall within these circumstances is not large.
3. There are a number of reasons why it is desirable to have someone able to manage these CTF accounts – the religious or ethical beliefs of the child may not fit with the CTF account the child has or with the investments, or the account may be performing badly.
4. Although local authorities do sometimes have parental responsibility for the children they look after, they cannot manage CTF accounts. Any responsibility for the management of CTF accounts of looked after children would expose local authorities to liability for financial and investment decisions its employees are not best placed to take. They are therefore excluded from giving instructions to account providers regarding the managing of CTF accounts by section 3 4 (e) and (8) of the Child Trust Funds Act
5. Arrangements have therefore been made to allow the Official Solicitor for England & Wales, the Official Solicitor for Northern Ireland or the Accountant of Court in Scotland to manage the CTF accounts of looked after children in certain circumstances. The circumstances are set out in five conditions in regulation 5.
6. As part of their monthly return to the Inland Revenue of children first entering care, local authorities will identify those children under the age of 16 who fall within these conditions. The Inland Revenue will then pass the details (including where the account is, the account details, and any religious or ethical beliefs that the local authorities have identified which may be useful to identify an appropriate account for the child) to the relevant Official Solicitor or Accountant of Court. The Official Solicitor or the Accountant of Court will contact the provider of the CTF account and become the registered contact.
7. If once the Official Solicitor or Accountant of Court has taken control of a child's CTF account, someone with parental responsibility becomes available then that person should contact the Official Solicitor or Accountant of Court in order to become the new registered contact. The Official Solicitor or Accountant of Court will perform such checks as it deems necessary that this person is appropriate. The

regulations provide for the Official Solicitor or Accountant of Court to contact local authorities and/or to ask the person to provide satisfactory evidence of their identity and that they have parental responsibility for the child.

8. Please note that where a child is adopted an adopting parent acquires parental responsibility when the adoption order comes into force. They can then make arrangements direct with the provider to manage their child's CTF account.
9. Once a child reaches the age of 16, the Official Solicitor or Accountant of Court ceases to have control of that child's CTF account as the child can manage their own CTF account in common with all children.

Role of the Official Solicitor or Accountant of Court

10. The Official Solicitor or Accountant of Court will be the registered contact for a child's CTF account. This means that they have the ability to move the CTF account to a different provider or change the type of CTF account if they feel this is necessary and for the benefit of the child. Having taken over control of a CTF account, the Official Solicitor or Accountant of Court will write to the child explaining that they have taken over the account, what their role as registered contact will be and giving contact details.
11. The Official Solicitor or Accountant of Court will monitor the CTF accounts under their control.
12. The Official Solicitor or Accountant of Court should be in regular contact with the child as they will send a copy of the annual statement to the child. So that the child and its carers are aware of the account and where it is, should they wish to contribute to the account. The Official Solicitor or Accountant of Court will also write to a child when they move a child's CTF account, explaining why they have moved the account and letting the child and its carers know where the new account is. The child could also contact the Official Solicitor or Accountant of Court with any queries about the account, or to let them know if there are particular ethical or religious concerns they would like them to take account of.
13. The Official Solicitor or Accountant of Court will contact the child shortly before the child reaches the age of 16, explaining that their role ceases on the child's 16th birthday and encouraging the child to contact the provider to become the registered contact.
14. The Official Solicitor or Accountant of Court will send the Inland Revenue annual reports setting out the details of CTF accounts they have taken control and of CTF accounts they have relinquished in that year

COMMENTARY ON INDIVIDUAL REGULATIONS

Citation and Commencement

Regulation 1 gives the title by which the regulations are to be known and the date on which various of the regulations come into force.

Amendments to the Child Trust Funds Regulations 2004

Regulation 2 provides that the main CTF regulations shall be amended.

Regulation 3 amends regulation 13(11) and deems the Official Solicitor or the Accountant of Court to have agreed to the existing terms and conditions of the individual Child Trust Fund Account they have taken over.

Regulation 4 adds a new provision to main CTF regulation 33 which deals with returns of information from local authorities about looked after children. The new provision provides for the Revenue to be able to call for the supporting information on which these returns were based and also for inspection of records by the Revenue. Owing to an oversight this provision was not included in the main regulations.

Regulation 5 inserts a new regulation – Regulation 33A – allowing the Official Solicitor or the Accountant of Court to be the person who has the authority to manage a child's CTF account in certain circumstances.

Paragraph 1 Local authorities are required to identify all children born after 31 August 2002 under the age of 16 who fall within circumstances set out in paragraph 2 of the regulations and send these details to the Inland Revenue.

Paragraph 2 – specifies the five conditions that must be met for the Official Solicitor or Accountant of Court to become be the person with authority to manager a child's CTF account. The five conditions identify situations where there is no person who has parental responsibility for the child or where it would not be appropriate for a parent who does to exercise it on behalf of the child because contact is not allowed for example.

Paragraph 3 – specifies that the local authority should send the required details to the Inland Revenue and that the Inland Revenue will then send this information, following verification of some of the details, to the relevant Official Solicitor or Accountant of Court. The Official Solicitor or Accountant of Court will then become the person who can manage these children's CTF accounts.

Paragraph 4 sets out when the Official Solicitor or Accountant of Court will relinquish his management of a child's CTF account. This will happen when the child turns 16 and is the only person who can then give instructions on the management of their CTF account. It will also happen if a person with parental responsibility makes themselves known to the Official Solicitor or Accountant of Court and the local authority looking after a child confirms that the person has parental responsibility and that none of the conditions in paragraph 2 apply to them. If a child is no longer looked after the Official Solicitor or Accountant of Court will need to be satisfied with the evidence of parental responsibility in order to relinquish control of the CTF account.

Paragraph 5 provides the power for the Official Solicitor/Accountant of Court to get information from local authorities to enable the Official Solicitor/Accountant of Court determine that all the conditions necessary for them to relinquish their role have been fulfilled.

Paragraph 6 explains that the terminology in these regulations has the meaning defined in main CTF regulations 33.

Regulation 6 makes an amendment to the Schedule to the main CTF regulations (Stakeholder Accounts). It inserts after paragraph 2(2) (ba) an additional paragraph (baa). In the recent Child Trust Funds (Amendment) Regulations 2004, Regulation 15 (c) placed a restriction on cash held in a stakeholder account. Cash held in a deposit accounts or in a share account with a building society remains as a qualifying investment for a stakeholder account, but only where the interest is earned on that account on a daily basis, and the maximum difference between the Bank of England base rate and the interest on the account is less than 1% per year. Feedback from providers however indicated that this effectively required them to respond to changes within one day. The main Stakeholder cash deposit account by contrast has an additional rule that allows one month and the CTF regulations have therefore been aligned with this rule. Regulation 6 also makes a small technical change to the definition of gilt strips within the stakeholder investment provisions.