

2009 No. 3268

SOCIAL SECURITY

**The Child Benefit and Guardian's Allowance (Miscellaneous
Amendments) Regulations 2009**

Made - - - - *9th December 2009*
Laid before Parliament *10th December 2009*
Coming into force - - *1st January 2010*

The Treasury, in exercise of the powers conferred by sections 77(9)(a), 142(b) and 175(3) to (5) of the Social Security Contributions and Benefits Act 1992(c), sections 77(9), 138(5) and 171(3) to (5) and (10)(d) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(e) and sections 49(1)(a) and (b) and (2)(a) and (b) of the Tax Credits Act 2002(f), and the Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 1(1)(a), 5(1)(a), (i) and (m), and 189(4) to (6) of the Social Security Administration Act 1992(g), sections 1(1)(a), 5(1)(a), (j) and (n), and 165(4) to (6) and (11A)(h) of the Social Security Administration (Northern Ireland) Act 1992(i), sections 9(1), 10(3), 12(7), 79(4) to (7) and 84 of the Social Security Act 1998(j), Articles 2, 10(1), 11(3), 13(7) and 74(3) to (6) of the Social Security (Northern Ireland) Order 1998(k) and section 50(1) and (2)(b) and (d) to (f) of the Tax Credits Act 2002, make the following Regulations:

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- (a) The powers of the Secretary of State under section 77 were transferred to the Treasury by section 49(1)(a) of the Tax Credits Act 2002 (c. 21). Section 77(9) was amended by paragraph 4 of Schedule 1 to the Child Benefit Act 2005 (c. 6).
 - (b) The powers of the Secretary of State under section 142 were transferred to the Treasury by section 49(1)(b) of the Tax Credits Act 2002. Section 142 was substituted by section 1(2) of the Child Benefit Act 2005.
 - (c) 1992 c. 4.
 - (d) Subsection (10) was substituted, as from 1 April 1999, by paragraph 28(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) (NI) Order 1999 (S.R. (NI) 1999 No 149).
 - (e) 1992 c. 7. The powers of the Department for Social Development in Northern Ireland under sections 77 and 138 were transferred to the Treasury by section 49(1) and (2)(a) and (b) of the Tax Credits Act 2002.
 - (f) 2002 c.21.
 - (g) 1992 c. 5. The powers of the Secretary of State under this Act, so far as relating to child benefit and guardian's allowance, were transferred to the Commissioners of Inland Revenue by section 50(1) and (2)(b) of the Tax Credits Act 2002. By section 5 of the Commissioners for Revenue and Customs Act 2005 (2005 c. 11), the powers and functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs.
 - (h) Subsection (11A) was inserted, as from 1 April 1999, by paragraph 49(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) (NI) Order 1999 (S.I. 1999/671).
 - (i) 1992 c. 8. The powers of the Department for Social Development in Northern Ireland under this Act, so far as relating to child benefit and guardian's allowance, were transferred to the Commissioners of Inland Revenue by section 50(1) and (2)(d) of the Tax Credits Act 2002.
 - (j) 1998 c.14. The powers of the Secretary of State under this Act, so far as relating to child benefit and guardian's allowance, were transferred to the Commissioners of Inland Revenue by section 50(1) and (2)(e) of the Tax Credits Act 2002.
 - (k) S.I. 1998/1506; the powers of the Department for Social Development under this Order, so far as relating to child benefit and guardian's allowance, were transferred to the Commissioners of Inland Revenue by section 50(1) and (2)(f) of the Tax Credits Act 2002.

Citation and commencement

1. These Regulations may be cited as the Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2009, and shall come into force on 1st January 2010.

Interpretation

2. In these Regulations—

“the Administration Regulations” means the Child Benefit and Guardian's Allowance (Administration) Regulations 2003(a);

“the Appeals Regulations” means the Child Benefit and Guardian's Allowance (Decisions and Appeals) Regulations 2003(b);

“the General Regulations” means the Child Benefit (General) Regulations 2006(c); and

“the Guardian's Allowance Regulations” means the Guardian's Allowance (General) Regulations 2003(d).

Amendments to the Administration Regulations

3.—(1) The Administration Regulations are amended as follows.

(2) In regulation 2 for the definition of “appropriate office”(e) substitute—

““appropriate office” means—

(a) Waterview Park, Washington, Tyne and Wear; or

(b) any other office specified in writing by the Board.”.

(3) For regulation 5(1) (making a claim) substitute—

“(1) A claim, or an extension of a claim, for child benefit or guardian's allowance must be made—

(a) to the Board, in writing and completed on a form approved or authorised by the Board for the purpose of the claim; or

(b) in such other manner as the Board may decide having regard to all the circumstances.”.

(4) In regulation 19(1) (persons who may elect to have child benefit paid weekly)—

(a) after sub-paragraph (b)(i) delete “or”; and

(b) after sub-paragraph (b)(ii), add—

“;

(iii) an income-related employment and support allowance within the meaning in Part 1 of the Welfare Reform Act 2007(f) or Part 1 of the Welfare Reform Act (Northern Ireland) 2007(g); or

(iv) a state pension credit within the meaning in the State Pension Credit Act 2002(h) or the State Pension Credit Act (Northern Ireland) 2002(i).”.

(5) In regulation 26 (extinguishment of a right to payment if payment is not obtained within the prescribed period)(j)—

(a) S.I. 2003/492; relevant amending instruments are S.I. 2005/343 and 2006/203.

(b) S.I. 2003/916, to which there are amendments not relevant to these Regulations.

(c) S.I. 2006/223, amended by S.I. 2007/2150; there are other amending instruments but none is relevant.

(d) S.I. 2003/495, amended by S.I. 2006/204; there are other amending instruments but none is relevant.

(e) The definition of “appropriate office” was amended by S.I. 2006/203.

(f) 2007 c. 5.

(g) 2007 c. 2 (N.I.).

(h) 2002 c. 16.

(i) 2002 c. 14 (N.I.).

(j) Regulation 26 was amended by S.I. 2005/343.

(a) for paragraph (1) substitute—

“(1) A person’s right to payment of any sum of child benefit or guardian’s allowance shall be extinguished if payment of that sum has not been obtained within 12 months of the issue by the Board of a cheque or other instrument of payment to that person.”.

(b) omit paragraphs (2) to (5).

Amendment to the Appeals Regulations

4. In regulation 2(1) of the Appeals Regulations (interpretation) for the definition of “the appropriate office” substitute—

““the appropriate office” means—

(a) Waterview Park, Washington, Tyne and Wear; or

(b) any other office specified in writing by the Board.”.

Amendments to the General Regulations

5.—(1) The General Regulations are amended as follows.

(2) In regulation 1(3), for the definition of “an appropriate office” substitute—

““an appropriate office” means—

(a) Waterview Park, Washington, Tyne and Wear; or

(b) any other office specified in writing by the Commissioners.”.

(3) In regulation 1(3) for sub-paragraph (d) of the definition of “approved training”(a) substitute—

“(d) in relation to Northern Ireland, known as “Jobskills” or “Training for Success: Professional and Technical Training” or “Programme Led Apprenticeships (Apprenticeships NI)”.”.

(4) At the beginning of regulation 4(2) (continuation of entitlement until 31st August: 16 year olds) insert “Subject to paragraph (3),”.

(5) After regulation 4(2) add—

“(3) In the case of a person who attains the age of 16 on 31 August in any year, the condition is that the 1st September immediately following has not passed.”.

(6) For regulation 5(2)(f) (extension period:16 and 17 year olds) substitute—

“(f) the individual who is responsible for that person, within three months of that person’s ceasing education or training, has made a request for the payment of child benefit during the extension period to the Commissioners, in writing, or by such other means as the Commissioners may accept.”.

Amendment to the Guardian’s Allowance Regulations

6. In regulation 10 of the Guardian’s Allowance Regulations (prescribed manner of making an election under section 77(9) of the Act or section 77(9) of the Northern Ireland Act) for paragraph (3)(b) substitute—

“(3) In paragraph (2) “an appropriate office” means—

(a) Waterview Park, Washington, Tyne and Wear; or

(b) any other office specified in writing by the Board.”.

(a) The definition of “approved training” was amended by S.I. 2007/2150.

(b) Regulation 10(3) was substituted by S.I. 2006/204.

Steve McCabe

Frank Roy

9th December 2009

Two of the Lords Commissioners of Her Majesty's Treasury

Dave Hartnett

Bernadette Kenny

9th December 2009

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 ("the Administration Regulations"), the Child Benefit and Guardian's Allowance (Decisions and Appeals) Regulations 2003 ("the Appeals Regulations"), the Child Benefit (General) Regulations 2006 ("the General Regulations") and the Guardian's Allowance (General) Regulations 2003 ("the Guardian's Allowance Regulations").

Regulation 3 amends the Administration Regulations. Regulation 3(2) provides that the definition of an appropriate office to claim child benefit or guardian's allowance will now be Waterview Park, Washington, Tyne and Wear or any other office specified in writing by the Commissioners for Her Majesty's Revenue and Customs ("HMRC"). Regulations 4, 5(2) and 6 make similar amendments to regulation 2(1) of the Appeals Regulations, regulation 1(3) of the General Regulations and regulation 10(3) of the Guardian's Allowance Regulations respectively.

Regulation 3(3) amends regulation 5(1) of the Administration Regulations, to allow claims for child benefit or guardian's allowance to be made either in writing or in such other manner as the Commissioners for HMRC decide. Regulation 3(4) amends regulation 19(1) of the Administration Regulations, to extend the category of persons who may elect to have child benefit paid weekly. Regulation 3(5) amends regulation 26(1) to (5) of the Administration Regulations, to provide that a person's right to a payment of child benefit or guardian's allowance is extinguished if payment has not been obtained within 12 months of the issue of the cheque or other instrument of payment to that person by the Commissioners for HMRC.

Regulation 5 makes further amendments to the General Regulations. Regulation 5(3) amends the definition of "approved training" in regulation 1(3) of the General Regulations, in order to take into account a new training provision in Northern Ireland which came into effect in September 2009. Regulations 5(4) and (5) amend regulation 4(2) of the General Regulations, to provide that in the case of a child who was born on 31 August and who has left relevant education or training, entitlement to child benefit in respect of that child will cease on 1 September immediately following that child's 16th birthday. Regulation 5(6) amends regulation 5(2)(f) of the General Regulations, to provide that a request for an extension of child benefit in respect of a child can be made either in writing or by such other means as the Commissioners for HMRC may accept.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

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