

**2004 No. 761**

**SOCIAL SECURITY**

**The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2004**

<i>Made</i> - - - -	<i>15th March 2004</i>
<i>Laid before Parliament</i>	<i>15th March 2004</i>
<i>Coming into force</i> - -	<i>6th April 2004</i>

The Treasury, in exercise of the powers conferred upon them by section 142(1)(b) of the Social Security Contributions and Benefits Act 1992(a) and section 138(1)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b), and the Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 5(1)(b), 189(4) and 191 of the Social Security Administration Act 1992(c) and sections 5(1)(b), 165(4) and 167 of the Social Security Administration (Northern Ireland) Act 1992(d), make the following Regulations:

**Citation, commencement and effect**

1. These Regulations shall be cited as the Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2004 and shall come into force on 6th April 2004.

**Amendment to the Child Benefit and Guardian's Allowance (Administration) Regulations 2003**

2.—(1) The Child Benefit and Guardian's Allowance (Administration) Regulations 2003(e) are amended as follows.

(2) At the end of regulation 6(2) add—

“(d) a person who has claimed asylum and, on or after 6th April 2004, makes a claim for that benefit or allowances and satisfies the following conditions—

(i) the person is notified that he has been recorded as a refugee by the Secretary of State; and

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(a) 1992 c. 4. The power of the Secretary of State to make regulations under section 142(1)(b) was transferred to the Treasury by section 49(1)(b) of the Tax Credits Act 2002 (c. 21: “the 2002 Act”).

(b) 1992 c. 7. The power of the Department for Health and Social Services for Northern Ireland to make regulations under section 138(1)(b) was transferred to the Department for Social Development by Article 8(b) of, and Part II of Schedule 6 to the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No. 481) and further transferred to the Treasury by section 49(2)(b) of the 2002 Act.

(c) 1992 c.5. The powers of the Secretary of State in respect of child benefit and guardian's allowance under section 5 were transferred to the Board of Inland Revenue (“the Board”) by section 50(2)(b) of the 2002 Act. Section 191 is cited because of the meaning ascribed to “prescribe”.

(d) 1992 c. 8. The powers of the Department for Health and Social Services for Northern Ireland under section 5 were transferred to the Department for Social Development as mentioned in footnote (b) above and further transferred in respect of child benefit and guardian's allowance by section 50(2)(d) of the 2002 Act to the Board. Section 167 is cited because of the meaning ascribed to “prescribe”.

(e) S.I. 2003/492: regulation 6 was amended by S.I. 2003/2107.

(ii) he claims that benefit or allowance within 3 months of receiving that notification”.

(3) After paragraph (2) (as amended by paragraph (2) of this regulation) add—

“(3) In a case falling within paragraph (2)(d) the person making the claim shall be treated as having made it on the date when he submitted his claim for asylum.”.

### **Amendment to the Child Benefit (General) Regulations 2003**

3. The Child Benefit (General) Regulations 2003(a) are amended as follows.

4. In regulation 1(2), in paragraph (b) of the definition of “advanced education” —

(a) omit “or the Scottish Qualifications Authority”; and

(b) for “a Scottish certificate” to the end of the sub-paragraph, substitute “or Scottish national qualifications at higher or advanced higher level”.

5. In regulation 9 (exclusion from child benefit of children aged 16 but under the age of 19 who are receiving advanced education or training under a relevant training programme)—

(a) for “section 144(1)(a)” substitute “section 144(1)(a) and (b)”; and

(b) for “section 140(1)(a)” substitute “section 140(1)(a) and (b)”.

15th March 2004

*Nick Ainger*  
*Jim Murphy*  
Two of the Lords Commissioners of Her Majesty’s Treasury

11th March 2004

*Ann Chant*  
*Dave Hartnett*  
Two of the Commissioners of Inland Revenue

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(a) S.I. 2003/493.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 (S.I. 2003/492: "the Administration Regulations") and the Child Benefit (General) Regulations 2003 (S.I.2003/493: "the General Regulations").

Regulation 1 provides for the citation and commencement of the Regulations.

Regulation 2 amends the Administration Regulations to provide that a claim for child benefit or guardian's allowance made on or after 6th April 2004, by a person who has claimed asylum and who is notified that he has been recorded as a refugee by the Secretary of State, and claims that benefit or allowance within 3 months of that notification, shall be treated as having been made on the date on which the claimant first claimed asylum.

Regulations 3 to 5 amend the General Regulations.

Regulation 3 introduces the amendments.

Regulation 4 amends the definition of "advanced education" in relation to Scotland.

Regulation 5 makes minor corrections to regulation 9 of the General Regulations, restoring the position in respect of entitlement to child benefit in the case of persons under the age of 19 who are receiving advanced education or training under a relevant training programme, to what it had been before 7th April 2003.

These Regulations do not impose new costs on business.

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STATUTORY INSTRUMENTS

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Amendments) Regulations 2004**

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