



# Child Trust Funds Act 2004

## CHAPTER 6

### CONTENTS

#### *Introductory*

- 1 Child trust funds
- 2 Eligible children
- 3 Requirements to be satisfied
- 4 Inalienability

#### *Opening and transfers*

- 5 Opening by responsible person or child
- 6 Opening by Inland Revenue
- 7 Transfers

#### *Contributions and subscriptions*

- 8 Initial contribution by Inland Revenue
- 9 Supplementary contribution by Inland Revenue
- 10 Further contributions by Inland Revenue
- 11 Recouping Inland Revenue contributions
- 12 Subscription limits

#### *Tax*

- 13 Relief from income tax and capital gains tax
- 14 Insurance companies and friendly societies

#### *Information etc.*

- 15 Information from account providers etc.
- 16 Information about children in care of authority
- 17 Use of information
- 18 Disclosure of information

*Payments after death*

- 19 Payments after death of child

*Penalties*

- 20 Penalties  
21 Decisions, appeals, mitigation and recovery

*Appeals*

- 22 Rights of appeal  
23 Exercise of rights of appeal  
24 Temporary modifications

*Supplementary*

- 25 Northern Ireland  
26 Money  
27 Commencement  
28 Regulations and orders  
29 Interpretation  
30 Extent  
31 Short title



# Child Trust Funds Act 2004

## 2004 CHAPTER 6

An Act to make provision about child trust funds and for connected purposes.  
[13th May 2004]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Introductory*

#### **1 Child trust funds**

- (1) This Act makes provision about child trust funds and related matters.
- (2) In this Act “child trust fund” means an account which—
  - (a) is held by a child who is or has been an eligible child (see section 2),
  - (b) satisfies the requirements imposed by and by virtue of this Act (see section 3), and
  - (c) has been opened in accordance with this Act (see sections 5 and 6).
- (3) The matters dealt with by and under this Act are to be under the care and management of the Inland Revenue.

#### **2 Eligible children**

- (1) For the purposes of this Act a child is an “eligible child” if the child was born after 31st August 2002 and either—
  - (a) a person is entitled to child benefit in respect of the child, or
  - (b) entitlement to child benefit in respect of the child is excluded by the provisions specified in subsection (2)(a) or (b) (children in care of authority),but subject as follows.
- (2) The provisions referred to in subsection (1)(b) are—

- (a) paragraph 1(c) of Schedule 9 to the Social Security Contributions and Benefits Act 1992 (c. 4) and regulations made under it, and
  - (b) paragraph 1(1)(f) of Schedule 9 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) and regulations made under it.
- (3) Where entitlement to child benefit in respect of a child is excluded because of a directly applicable Community provision or an international agreement, subsection (1) applies as if that exclusion did not apply.
- (4) Where a person is entitled to child benefit in respect of a child only because of a directly applicable Community provision or an international agreement, subsection (1) applies as if the person were not so entitled.
- (5) A child who –
- (a) does not have the right of abode in the United Kingdom within the meaning given by section 2 of the Immigration Act 1971 (c. 77),
  - (b) is not a qualified person, or a family member of a qualified person, within the meaning of the Immigration (European Economic Area) Regulations 2000 (S.I. 2000/2326), and
  - (c) is not settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971,
- is not an eligible child.
- (6) A person is not to be regarded for the purposes of subsection (1)(a) as entitled to child benefit in respect of a child (otherwise than by virtue of subsection (3)) unless it has been decided in accordance with –
- (a) Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14), or
  - (b) Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)),
- that the person is so entitled (and that decision has not been overturned).
- (7) Regulations may amend subsection (1) by substituting for the reference to 31st August 2002 a reference to an earlier date.

### **3 Requirements to be satisfied**

- (1) A child trust fund may be held only with a person (referred to in this Act as an “account provider”) who has been approved by the Inland Revenue in accordance with regulations.
- (2) An account is not a child trust fund unless it is an account of one of the descriptions prescribed by regulations.
- (3) The provision which may be made by regulations under subsection (1) includes making approval of an account provider dependent on the person undertaking to provide accounts of such of the descriptions for which provision is made by regulations under subsection (2) as is prescribed by the regulations.
- (4) The terms of a child trust fund must –
- (a) secure that it is held in the name of a child,
  - (b) secure that the child is beneficially entitled to the investments under it,
  - (c) secure that all income and gains arising on investments under it constitute investments under it,
  - (d) prevent withdrawals from it except as permitted by regulations, and

- (e) provide that instructions may be given to the account provider with respect to its management only by the person who has the authority to manage it.
- (5) Regulations may impose other requirements which must be satisfied in relation to child trust funds.
- (6) The person who has the authority to manage a child trust fund held by a child –
  - (a) if the child is 16 or over, is the child, and
  - (b) if the child is under 16, is the person who has that authority by virtue of subsection (7) (but subject to subsection (10)).
- (7) If there is one person who is a responsible person in relation to the child, that person has that authority; and if there is more than one person who is such a person, which of them has that authority is to be determined in accordance with regulations.
- (8) For the purposes of this Act a person is a responsible person in relation to a child under 16 if the person has parental responsibility in relation to the child and is not –
  - (a) a local authority or, in Northern Ireland, an authority within the meaning of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), or
  - (b) a person under 16.
- (9) “Parental responsibility” means –
  - (a) parental responsibility within the meaning of the Children Act 1989 (c. 41) or the Children (Northern Ireland) Order 1995, or
  - (b) parental responsibilities within the meaning of the Children (Scotland) Act 1995 (c. 36).
- (10) Regulations may provide that, in circumstances prescribed by the regulations, the person who has the authority to manage a child trust fund held by a child under 16 is to be the Official Solicitor (in England and Wales or Northern Ireland) or the Accountant of Court (in Scotland).
- (11) A person who has the authority to manage a child trust fund by virtue of subsection (10) is entitled to give any instructions to the account provider with respect to its management which appear to the person who has that authority to be for the benefit of the child.
- (12) Where a contract is entered into by or on behalf of a child who is 16 or over in connection with a child trust fund –
  - (a) held by the child, or
  - (b) held by another child in relation to whom the child has parental responsibility,the contract has effect as if the child had been 18 or over when it was entered into.

#### **4 Inalienability**

- (1) Any assignment of, or agreement to assign, investments under a child trust fund, and any charge on or agreement to charge any such investments, is void.

- (2) On the bankruptcy of a child by whom a child trust fund is held, the entitlement to investments under it does not pass to any trustee or other person acting on behalf of the child's creditors.
- (3) "Assignment" includes assignation; and "assign" is to be construed accordingly.
- (4) "Charge on or agreement to charge" includes a right in security over or an agreement to create a right in security over.
- (5) "Bankruptcy", in relation to a child, includes the sequestration of the child's estate.

### *Opening and transfers*

## **5 Opening by responsible person or child**

- (1) In the case of each child who is first an eligible child by virtue of section 2(1)(a) the Inland Revenue must issue, in a manner prescribed by regulations, a voucher in such form as is so prescribed.
- (2) The voucher must be issued to the person who is entitled to child benefit in respect of the child (or, in the case of a child who is such an eligible child because of section 2(3), to a responsible person).
- (3) An application may be made—
  - (a) if the child is 16 or over, by the child, or
  - (b) otherwise, by a responsible person,
 to open for the child with an account provider a child trust fund of any description provided by the account provider.
- (4) The application is to be made—
  - (a) within such period beginning with the day on which the voucher is issued as is prescribed by regulations, and
  - (b) in accordance with regulations.
- (5) When the application has been made the account provider must—
  - (a) open, in accordance with regulations, a child trust fund of that description for the child, and
  - (b) inform the Inland Revenue in accordance with regulations.

## **6 Opening by Inland Revenue**

- (1) In the case of each child to whom this section applies, the Inland Revenue must apply to open for the child with an account provider selected in accordance with regulations a child trust fund of a description so selected.
- (2) The application is to be made in accordance with regulations.
- (3) The account provider must—
  - (a) open, in accordance with regulations, a child trust fund of that description for the child, and
  - (b) inform the Inland Revenue in accordance with regulations.
- (4) This section applies—

- (a) to a child in respect of whom a voucher is issued under section 5(1) but in whose case subsection (5) is satisfied, and
  - (b) to a child who is first an eligible child by virtue of section 2(1)(b).
- (5) This subsection is satisfied in the case of a child if—
- (a) the period prescribed under section 5(4) expires without a child trust fund having been opened for the child, or
  - (b) the child is under 16 and it appears to the Inland Revenue that there is no-one who is a responsible person in relation to the child.
- (6) No liability is to arise in respect of the selection of an account provider, or a description of child trust fund, in accordance with regulations under this section.

## **7 Transfers**

Regulations may make provision about the circumstances in which—

- (a) a child trust fund which is an account of one of the descriptions prescribed by regulations may become an account of another of those descriptions, and
- (b) a child trust fund held with one account provider may be transferred to another.

### *Contributions and subscriptions*

## **8 Initial contribution by Inland Revenue**

- (1) The Inland Revenue must pay to an account provider such amount as is prescribed by regulations if the account provider has—
- (a) informed the Inland Revenue under section 5(5) or 6(3) that a child trust fund has been opened, and
  - (b) made a claim to the Inland Revenue in accordance with regulations.
- (2) On receipt of the payment the account provider must credit the child trust fund with the amount of the payment.

## **9 Supplementary contribution by Inland Revenue**

- (1) If this section applies to a child the Inland Revenue must inform the account provider with whom a child trust fund is held by the child that this section applies to the child.
- (2) If the account provider makes a claim to the Inland Revenue in accordance with regulations, the Inland Revenue must pay to the account provider such amount as is prescribed by regulations.
- (3) On receipt of the payment the account provider must credit the child trust fund with the amount of the payment.
- (4) This section applies to a child if—
- (a) a child trust fund is held by the child,
  - (b) the child was first an eligible child by virtue of section 2(1)(a), and
  - (c) the condition in subsection (5) is satisfied in relation to the child.

- (5) That condition is that it has been determined in accordance with the provision made by and by virtue of sections 18 to 21 of the Tax Credits Act 2002 (c. 21) –
- (a) that a person was, or persons were, entitled to child tax credit in respect of the child for the child benefit commencement date, and
  - (b) that either the relevant income of the person or persons for the tax year in which that date fell does not exceed the income threshold or the person, or either of the persons, was entitled to a relevant social security benefit for that date,
- and that determination has not been overturned.
- (6) In subsection (5)(b) –
- “the income threshold” has the meaning given by section 7(1)(a) of the Tax Credits Act 2002,
  - “the relevant income”, in relation to a person or persons and a tax year, has the meaning given by section 7(3) of that Act in relation to a claim by the person or persons for a tax credit for the tax year,
  - “relevant social security benefit” means any social security benefit prescribed for the purposes of section 7(2) of that Act, and
  - “tax year” means a period beginning with 6th April in one year and ending with 5th April in the next.
- (7) If the child benefit commencement date is earlier than 6th April 2005, this section applies in relation to the child even if the condition in subsection (5) is not satisfied in relation to the child provided that the condition in subsection (8) is so satisfied.
- (8) That condition is that –
- (a) income support, or income-based jobseeker’s allowance, was paid for the child benefit commencement date to a person whose applicable amount included an amount in respect of the child, or
  - (b) working families’ tax credit, or disabled person’s tax credit, was paid for that date to a person whose appropriate maximum working families’ tax credit, or appropriate maximum disabled person’s tax credit, included a credit in respect of the child.
- (9) If the child benefit commencement date is earlier than 6th April 2003, subsection (5) has effect as if –
- (a) the reference in paragraph (a) to the child benefit commencement date were to any date in the tax year beginning with 6th April 2003,
  - (b) the reference in paragraph (b) to the tax year in which the child benefit commencement date fell were to the tax year beginning with 6th April 2003, and
  - (c) the reference in paragraph (b) to being entitled to a relevant social security benefit for the child benefit commencement date were to being so entitled for any date in that tax year for which the person was, or the persons were, entitled to child tax credit in respect of the child.
- (10) “Child benefit commencement date”, in relation to a child, means –
- (a) the first day for which child benefit was paid in respect of the child (otherwise than because of a directly applicable Community provision or an international agreement), or
  - (b) in the case of a child to whom section 2(3) applies or section 2(5) has applied, such day as is prescribed by regulations.



## **10 Further contributions by Inland Revenue**

- (1) Regulations may make provision for the making by the Inland Revenue in the circumstances mentioned in subsection (2) of payments to account providers of child trust funds held by –
  - (a) eligible children, or
  - (b) any description of eligible children,of amounts prescribed by, or determined in accordance with, regulations.
- (2) The circumstances referred to in subsection (1) are –
  - (a) the children attaining such age as may be prescribed by the regulations, or
  - (b) such other circumstances as may be so prescribed.
- (3) The regulations must include provision –
  - (a) for making account providers aware that such amounts are payable,
  - (b) about the claiming of such payments by account providers, and
  - (c) about the crediting of child trust funds by account providers with the amount of such payments.
- (4) For the purposes of this section, a child is to be treated as being an eligible child if entitlement to child benefit in respect of the child is excluded by –
  - (a) paragraph 1(a) of Schedule 9 to the Social Security Contributions and Benefits Act 1992 (c. 4) (children in custody), or
  - (b) paragraph 1(1)(a) to (d) of Schedule 9 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (corresponding provision for Northern Ireland).

## **11 Recouping Inland Revenue contributions**

- (1) Regulations may make provision requiring that, in circumstances prescribed by the regulations, a person of a description so prescribed is to account to the Inland Revenue for amounts credited to a child trust fund in respect of Inland Revenue contributions (together with any income and gains arising in consequence of the crediting of those amounts).
- (2) “Inland Revenue contributions” means payments made by the Inland Revenue which were required to be made under or by virtue of sections 8 to 10 or which the Inland Revenue considered were required to be so made.

## **12 Subscription limits**

- (1) No subscription may be made to a child trust fund otherwise than by way of a monetary payment.
- (2) Regulations may prescribe the maximum amount that may be subscribed to a child trust fund in each year (otherwise than by way of credits made under or by virtue of this Act or income or gains arising on investments under the child trust fund).
- (3) “Year”, in relation to a child trust fund held by a child, means –
  - (a) the period beginning with the day on which the child trust fund is opened and ending immediately before the child’s next birthday, and
  - (b) each succeeding period of twelve months.

*Tax***13 Relief from income tax and capital gains tax**

- (1) Regulations may make provision for and in connection with giving relief from—
  - (a) income tax, and
  - (b) capital gains tax,in respect of investments under child trust funds.
- (2) The regulations may, in particular, include—
  - (a) provision for securing that losses are disregarded for the purposes of capital gains tax where they accrue on the disposal of investments under child trust funds, and
  - (b) provision dealing with anything which, apart from the regulations, would have been regarded for those purposes as an indistinguishable part of the same asset.
- (3) The regulations may specify how tax relief is to be claimed by persons entitled to it or by account providers on their behalf.
- (4) The regulations may include provision requiring that, in circumstances prescribed by the regulations, the person prescribed by the regulations is to account to the Inland Revenue for—
  - (a) tax from which relief has been given under the regulations, and
  - (b) income or gains arising in consequence of the giving of relief under the regulations,or for an amount determined in accordance with the regulations in respect of such tax.
- (5) Provision made by virtue of this section may disapply, or modify the effect of, any enactment relating to income tax or capital gains tax.

**14 Insurance companies and friendly societies**

- (1) Subsections (1) and (5) to (9) of section 333B of the Income and Corporation Taxes Act 1988 (c. 1) (involvement of insurance companies and friendly societies with ISAs) have effect in relation to insurance companies and friendly societies as if child trust fund business were section 333 business (within the meaning of section 333B).
- (2) “Child trust fund business”, in relation to an insurance company or friendly society, means business of the insurance company or friendly society that is attributable to child trust funds.

*Information etc.***15 Information from account providers etc.**

- (1) Regulations may require, or authorise officers of the Inland Revenue to require, any relevant person—
  - (a) to make documents available for inspection on behalf of the Inland Revenue, or
  - (b) to provide to the Inland Revenue any information,

relating to, or to investments which are or have been held under, a child trust fund.

- (2) The following are relevant persons –
  - (a) anyone who is or has been the account provider in relation to the child trust fund,
  - (b) the person by whom the child trust fund is or was held,
  - (c) the person (if any) to whom a voucher was issued under section 5(1) in respect of the child by whom the child trust fund is or was held,
  - (d) the person who applied to open the child trust fund (unless it was opened by the Inland Revenue),
  - (e) anyone who has given instructions with respect to the management of the child trust fund, and
  - (f) anyone entitled to child benefit in respect of the child.
- (3) The regulations may include provision requiring documents to be made available or information to be provided –
  - (a) in the manner and form, and
  - (b) by the time and at the place, prescribed by or under the regulations.

## **16 Information about children in care of authority**

- (1) Regulations may require, or authorise officers of the Inland Revenue to require, an authority –
  - (a) to make documents available for inspection on behalf of the Inland Revenue, or
  - (b) to provide to the Inland Revenue any information, which the Inland Revenue may require for the discharge of any function relating to child trust funds and which is information to which subsection (2) applies.
- (2) This subsection applies to information relating to a child who falls or has fallen within –
  - (a) paragraph 1(c) of Schedule 9 to the Social Security Contributions and Benefits Act 1992 (c. 4), or
  - (b) paragraph 1(1)(f) of Schedule 9 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7),by reason of being, or having been, in the care of the authority in circumstances prescribed by regulations under that provision.
- (3) The regulations may include provision requiring documents to be made available or information to be provided –
  - (a) in the manner and form, and
  - (b) by the time and at the place, prescribed by or under the regulations.

## **17 Use of information**

- (1) Information held for the purposes of any function relating to child trust funds –
  - (a) by the Inland Revenue, or

- (b) by a person providing services to the Inland Revenue, in connection with the provision of those services,  
may be used, or supplied to any person providing services to the Inland Revenue, for the purposes of, or for any purposes connected with, the exercise of any such function.
- (2) Information held for the purposes of any function relating to child trust funds—
- (a) by the Inland Revenue, or
- (b) by a person providing services to the Inland Revenue, in connection with the provision of those services,  
may be used, or supplied to any person providing services to the Inland Revenue, for the purposes of, or for any purposes connected with, the exercise of any other function of the Inland Revenue.
- (3) Information held for the purposes of any function other than those relating to child trust funds—
- (a) by the Inland Revenue, or
- (b) by a person providing services to the Inland Revenue, in connection with the provision of those services,  
may be used, or supplied to any person providing services to the Inland Revenue, for the purposes of, or for any purposes connected with, the exercise of any function of the Inland Revenue relating to child trust funds.
- (4) Information held by the Secretary of State or the Department for Social Development in Northern Ireland, or any person providing services to the Secretary of State or that Department, may be supplied to—
- (a) the Inland Revenue, or
- (b) a person providing services to the Inland Revenue, in connection with the provision of those services,  
for use for the purposes of, or for any purposes connected with, the exercise of any function of the Inland Revenue relating to child trust funds.

## 18 Disclosure of information

- (1) Section 182 of the Finance Act 1989 (c. 26) (disclosure of information by officials) is amended as follows.
- (2) In subsection (1) (offence of disclosure by person holding information in exercise of certain functions)—
- (a) after “tax credit functions” insert “, child trust fund functions”, and
- (b) after paragraph (aa) insert—  
“(ab) to a child trust fund of any identifiable person,”.
- (3) After subsection (2ZA) insert—  
“(2ZB) In this section “child trust fund functions” means the functions relating to child trust funds—
- (a) of the Board and their officers,
- (b) of any person carrying out the administrative work of the General Commissioners or the Special Commissioners, or
- (c) of any person providing, or employed in the provision of, services to the Board or any person mentioned in paragraph (b) above.”

- (4) In subsection (4) (offence of disclosure by staff of auditors or ombudsmen) –
  - (a) in paragraphs (b) and (c), after “tax credit functions” insert “, child trust fund functions”, and
  - (b) after sub-paragraph (ia) of paragraph (c) insert –
    - “(ib) to a child trust fund of any identifiable person,”.
- (5) In subsection (5)(b) (exception in case of consent), for “or to a tax credit” substitute “, to a tax credit or to a child trust fund”.
- (6) In subsection (10), after the definition of “the Board” insert –
 

““child trust fund” has the same meaning as in the Child Trust Funds Act 2004,”.

#### *Payments after death*

### **19 Payments after death of child**

- (1) Where a relevant child dies, the Inland Revenue may make a payment to the personal representatives of the child if any one or more of the conditions specified in subsection (3) is satisfied.
- (2) “Relevant child” means a child who is or has been an eligible child (or would have been had this Act come into force on the date referred to in section 2(1)).
- (3) The conditions are –
  - (a) that either no payment had been made under section 8 by the Inland Revenue or, if one had, the amount of the payment had not been credited to the child trust fund held by the child,
  - (b) that section 9 applied to the child (or would have had this Act come into force on the date referred to in section 2(1)) but either no payment had been made under that section by the Inland Revenue or, if one had, the amount of the payment had not been credited to the child trust fund held by the child, and
  - (c) that the Inland Revenue was required by regulations under section 10 to make a payment in respect of the child but either the payment had not been made or, if it had, the amount of the payment had not been credited to the child trust fund held by the child.
- (4) The amount of the payment is to be equal to the amount of the payment or payments which had not been made or credited.

#### *Penalties*

### **20 Penalties**

- (1) A penalty of £300 may be imposed on any person who fraudulently –
  - (a) applies to open a child trust fund,
  - (b) makes a withdrawal from a child trust fund otherwise than as permitted by regulations under section 3(4)(d), or
  - (c) secures the opening of a child trust fund by the Inland Revenue.
- (2) A penalty not exceeding £3,000 may be imposed on –

- (a) an account provider who fraudulently or negligently makes an incorrect statement or declaration in connection with a claim under section 8 or 9 or regulations under section 10 or 13, and
  - (b) any person who fraudulently or negligently provides incorrect information in response to a requirement imposed by or under regulations under section 15.
- (3) Penalties may be imposed on—
  - (a) an account provider who fails to make a claim under section 8 or 9 or regulations under section 10 by the time required by regulations under the section concerned, and
  - (b) any person who fails to make a document available, or provide information, in accordance with regulations under section 15.
- (4) The penalties which may be imposed under subsection (3) are—
  - (a) a penalty not exceeding £300, and
  - (b) if the failure continues after a penalty under paragraph (a) is imposed, a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (5) No penalty under subsection (3) may be imposed on a person in respect of a failure after the failure has been remedied.
- (6) For the purposes of subsection (3) a person is to be taken not to have failed to make a claim, make available a document or provide information which must be made, made available or provided by a particular time—
  - (a) if the person made it, made it available or provided it within such further time (if any) as the Inland Revenue may have allowed,
  - (b) if the person had a reasonable excuse for not making it, making it available or providing it by that time, or
  - (c) if, after having had such an excuse, the person made it, made it available or provided it without unreasonable delay.
- (7) A penalty may be imposed on an account provider in respect of—
  - (a) the provision by the account provider, as a child trust fund, of an account which does not meet the condition in subsection (8),
  - (b) a failure by the account provider to comply with section 8(2) or 9(3) or with a requirement imposed on the account provider by regulations under section 5(5), 6(3), 7 or 10(3), or
  - (c) a breach of section 12(1), or regulations under section 12(2), in relation to a child trust fund held with the account provider.
- (8) An account meets the condition referred to in subsection (7)(a) if—
  - (a) it is of one of the descriptions prescribed by regulations under section 3(2),
  - (b) section 3(4) is complied with in relation to it, and
  - (c) the requirements imposed by regulations under section 3(5) are satisfied in relation to it.
- (9) The penalty which may be imposed under subsection (7) on the account provider is a penalty not exceeding—
  - (a) £300, or

- (b) £1 in respect of each account affected by the matter, or any of the matters, in respect of which the penalty is imposed, whichever is greater.

## **21 Decisions, appeals, mitigation and recovery**

- (1) It is for the Inland Revenue to impose a penalty under section 20.
- (2) If the Inland Revenue decide to impose such a penalty the decision must (subject to the permitted maximum) set it at such amount as, in their opinion, is appropriate.
- (3) A decision to impose such a penalty may not be made after the end of the period of six years beginning with the date on which the penalty was incurred or began to be incurred.
- (4) The Inland Revenue must give notice of such a decision to the person on whom the penalty is imposed.
- (5) The notice must state the date on which it is given and give details of the right to appeal against the decision under section 22.
- (6) After the notice has been given, the decision must not be altered except on appeal.
- (7) But the Inland Revenue may, in their discretion, mitigate any penalty under section 20.
- (8) A penalty under section 20 becomes payable at the end of the period of 30 days beginning with the date on which notice of the decision is given.
- (9) On an appeal under section 22 against a decision under this section, the General Commissioners or Special Commissioners may –
  - (a) if it appears that no penalty has been incurred, set the decision aside,
  - (b) if the amount set appears to be appropriate, confirm the decision,
  - (c) if the amount set appears to be excessive, reduce it to such other amount (including nil) as they consider appropriate, or
  - (d) if the amount set appears to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.
- (10) An appeal from a decision of the Commissioners under subsection (9) lies, at the instance of the person on whom the penalty was imposed, to –
  - (a) the High Court, or
  - (b) in Scotland, the Court of Session as the Court of Exchequer in Scotland,and on such an appeal the court has a similar jurisdiction to that conferred on the Commissioners by that subsection.
- (11) A penalty is to be treated for the purposes of Part 6 of the Taxes Management Act 1970 (c. 9) (collection and recovery) as if it were tax charged in an assessment and due and payable.

### *Appeals*

## **22 Rights of appeal**

- (1) A person may appeal against –

- (a) a decision by the Inland Revenue not to approve the person as an account provider, or
  - (b) a decision by the Inland Revenue to withdraw the person's approval as an account provider.
- (2) A person who is a relevant person in relation to a child may appeal against a decision by the Inland Revenue –
- (a) not to issue a voucher under section 5 in relation to the child,
  - (b) not to open a child trust fund for the child under section 6,
  - (c) not to make a payment under section 8 or 9 in respect of the child, or
  - (d) not to make a payment under regulations under section 10 in respect of the child.
- (3) “Relevant person”, in relation to a child, means –
- (a) the person (if any) entitled to child benefit in respect of the child,
  - (b) anyone who applied to open a child trust fund for the child, and
  - (c) anyone who has, at any time, given instructions with respect to the management of the child trust fund held by the child.
- (4) A person who is required by the Inland Revenue to account for an amount under regulations under section 11 or 13 may appeal against the decision to impose the requirement.
- (5) The personal representatives of a child who has died may appeal against a decision by the Inland Revenue not to make a payment to them under section 19.
- (6) A person on whom a penalty under section 20 is imposed may appeal against the decision to impose the penalty or its amount.

### **23 Exercise of rights of appeal**

- (1) Notice of an appeal under section 22 against a decision must be given to the Inland Revenue in the manner prescribed by regulations within the period of thirty days after the date on which notice of the decision was given.
- (2) Notice of such an appeal must specify the grounds of appeal.
- (3) An appeal under section 22 is to the General Commissioners but the appellant may elect (in accordance with section 46(1) of the Taxes Management Act 1970 (c. 9)) to bring the appeal before the Special Commissioners instead.
- (4) Subsections (2) to (7) of section 31D of the Taxes Management Act 1970 (which relate to an election to bring proceedings before the Special Commissioners) have effect in relation to an election under subsection (3) (as in relation to an election under subsection (1) of that section).
- (5) On the hearing of an appeal under section 22 the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration if satisfied that the omission was not wilful or unreasonable.
- (6) Part 5 of the Taxes Management Act 1970 (appeals to Commissioners) applies in relation to appeals under section 22 (as in relation to appeals under the Taxes Acts, within the meaning of that Act), but subject to such modifications as are prescribed by regulations.



- (7) Any regulations under section 56B of the Taxes Management Act 1970 (c. 9) which are in force immediately before the commencement of subsection (6) apply, subject to any necessary modifications, for the purposes of appeals under section 22 (until amended or revoked).

## 24 Temporary modifications

- (1) Until such day as may be appointed by order –
- section 21 has effect subject to subsection (2),
  - section 23 has effect subject to subsection (3), and
  - section 182(2ZB) of the Finance Act 1989 (c. 26) has effect subject to subsection (4).
- (2) The references to –
- the General Commissioners or Special Commissioners in subsection (9) of section 21, and
  - the Commissioners in subsection (10) of that section,
- are to the appeal tribunal; and an appeal from a decision of the appeal tribunal under subsection (9) of that section lies to a Social Security Commissioner rather than the High Court or the Court of Session (so that the reference to the court in subsection (10) of that section is to the Social Security Commissioner).
- (3) An appeal under section 22 is to an appeal tribunal (rather than to the General Commissioners or Special Commissioners) so that –
- subsections (3), (4), (6) and (7) of section 23 do not apply, and
  - the reference to the Commissioners in subsection (5) of that section is to the appeal tribunal.
- (4) The reference to the General Commissioners or the Special Commissioners in section 182(2ZB) of the Finance Act 1989 is to an appeal tribunal.
- (5) Regulations may apply any provision contained in –
- the Social Security Act 1998 (c. 14) (social security appeals: Great Britain),
  - the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) (social security appeals: Northern Ireland), or
  - section 54 of the Taxes Management Act 1970 (settling of appeals by agreement),
- in relation to appeals which by virtue of this section are to an appeal tribunal, or lie to a Social Security Commissioner, but subject to such modifications as are prescribed by the regulations.
- (6) “Appeal tribunal” means an appeal tribunal constituted –
- in Great Britain, under Chapter 1 of Part 1 of the Social Security Act 1998, or
  - in Northern Ireland, under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998.
- (7) “Social Security Commissioner” means –
- in Great Britain, the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Act 1998 or a tribunal of three or more Commissioners constituted under section 16(7) of that Act, and

- (b) in Northern Ireland, the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Administration (Northern Ireland) Act 1992 (c. 8) or a tribunal of two or more Commissioners constituted under Article 16(7) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)).

### *Supplementary*

#### **25 Northern Ireland**

In Schedule 2 to the Northern Ireland Act 1998 (c. 47) (excepted matters), after paragraph 9 insert—

“9A Child Trust Funds.”

#### **26 Money**

- (1) Any expenditure incurred by the Inland Revenue under or by virtue of this Act is to be defrayed out of money provided by Parliament.
- (2) Any sums received by the Inland Revenue by virtue of this Act are to be paid into the Consolidated Fund.

#### **27 Commencement**

This Act (apart from sections 25 and 26, this section and sections 28 to 31) comes into force in accordance with provision made by order.

#### **28 Regulations and orders**

- (1) Any power to make regulations or an order under this Act is exercisable by the Treasury.
- (2) Any power to make regulations or an order under this Act includes power to make any incidental, supplementary, consequential or transitional provision which appears appropriate for the purposes of, or in connection with, the regulations or order.
- (3) Any power to make regulations under this Act may be exercised—
  - (a) in relation to all cases to which it extends, to all those cases with exceptions prescribed by the regulations or to cases or classes of case so prescribed,
  - (b) so as to make as respects the cases in relation to which it is exercised the full provision to which it extends or any less provision (whether by way of exception or otherwise),
  - (c) so as to make the same provision for all cases in relation to which it is exercised or different provision for different cases or classes of case or different provision as respects the same case or class of case for different purposes,
  - (d) so as to make provision unconditionally or subject to any condition prescribed by the regulations,
  - (e) so as to provide for a person to exercise a discretion in dealing with any matter.

- (4) Any power to make regulations or an order under this Act is exercisable by statutory instrument.
- (5) No regulations to which this subsection applies may be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Subsection (5) applies to—
  - (a) regulations under section 2(7) or 10(1) or (2), and
  - (b) regulations which prescribe an amount under section 8(1) or 9(2), other than the first regulations which do so.
- (7) A statutory instrument containing only regulations under section 13 is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Any other statutory instrument containing regulations under this Act is (unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.

## **29 Interpretation**

In this Act—

- “account provider” is to be construed in accordance with section 3(1),
- “child” means a person under the age of 18,
- “child trust fund” has the meaning given by section 1(2),
- “eligible child” is to be construed in accordance with section 2,
- “the General Commissioners” means the Commissioners for the general purposes of the income tax appointed under section 2 of the Taxes Management Act 1970 (c. 9),
- “the Inland Revenue” means the Commissioners of Inland Revenue,
- “responsible person” has the meaning given by section 3(8), and
- “the Special Commissioners” means the Commissioners for the special purposes of the Income Tax Acts appointed under section 4 of the Taxes Management Act 1970.

## **30 Extent**

This Act extends to Northern Ireland (as well as to England and Wales and Scotland).

## **31 Short title**

This Act may be cited as the Child Trust Funds Act 2004.