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STATUTORY INSTRUMENTS

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**2004 No. 1450**

**The Child Trust Funds Regulations 2004**

**PART 3**

Tax and administration of accounts

**Exemption from tax of account income and gains**

24. Subject to compliance with these Regulations (and in particular regulation 9)—
- (a) no tax shall be chargeable on the account provider or his nominee, or on the named child or registered contact (on his behalf)—
    - (i) in respect of interest, dividends, distributions or gains in respect of account investments [<sup>F1</sup>(excluding any building society bonus)],
    - [<sup>F2</sup>(ia) in respect of alternative finance return or profit share return paid by a financial institution (within the meanings in Chapter 5 of Part 2 of the Finance Act 2005);]
    - [<sup>F3</sup>(ib) in respect of a payment under a building society bonus scheme, so far as the payment is calculated by reference to account investments (and if paid directly by the society into the account, the payment shall not count towards the subscription limit in regulation 9);]
    - (ii) on any annual profits or gains treated by section 714(2) of the Taxes Act <sup>M1</sup> as having been received by any of them in respect of account investments,
    - (iii) on an offshore income gain to which a disposal made by any of them of an account investment gives rise, which is treated by section 761(1) of the Taxes Act as constituting profits or gains,
    - (iv) on a profit realised by any of them from the discount on a relevant discounted security within the meaning of Schedule 13 to the Finance Act 1996 <sup>M2</sup>, which is held as an account investment, or
    - (v) in respect of gains treated by section 541 of the Taxes Act as arising in connection with a policy of life insurance which is an account investment;
  - (b) losses accruing on any disposal of account investments shall be disregarded for the purposes of capital gains tax;
  - [<sup>F4</sup>(ba) any gain or loss accruing on and attributable to a payment within paragraph (ib) of sub-paragraph (a) shall not be a chargeable gain or allowable loss for capital gains tax purposes;]
  - (c) section 349B(4) of the Taxes Act shall apply with the following modifications—
    - (i) for references to a plan manager, substitute references to an account provider,
    - (ii) for references to a plan, substitute references to an account, and
    - (iii) for the reference to [<sup>F5</sup>Chapter 3 of Part 6 of ITTOIA 2005], substitute a reference to the Act;

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- (d) a corresponding deficiency occurring at the end of the final year, within the meaning of section 549(1) of the Taxes Act, so far as it relates to a policy of life insurance which is an account investment, shall not be allowable as a deduction from the total income of the named child;
- (e) relief in respect of tax shall be given in the manner and to the extent provided by these Regulations; and
- (f) income arising from account investments shall not be regarded as income for any income tax purposes (including [<sup>F6</sup>section 629 of ITTOIA 2005]).

#### Textual Amendments

- F1** Words in reg. 24(a)(i) added (1.1.2007) by [The Child Trust Funds \(Amendment No. 3\) Regulations 2006 \(S.I. 2006/3195\)](#), regs. 1, **4(a)**
- F2** Reg. 24(a)(ia) inserted (27.12.2005) by [The Child Trust Funds \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/3349\)](#), regs. 1, **7(a)**
- F3** Reg. 24(a)(ib) inserted (1.1.2007) by [The Child Trust Funds \(Amendment No. 3\) Regulations 2006 \(S.I. 2006/3195\)](#), regs. 1, **4(b)**
- F4** Reg. 24(ba) inserted (1.1.2007) by [The Child Trust Funds \(Amendment No. 3\) Regulations 2006 \(S.I. 2006/3195\)](#), regs. 1, **5**
- F5** Words in reg. 24(c)(iii) substituted (27.12.2005) by [The Child Trust Funds \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/3349\)](#), regs. 1, **7(b)**
- F6** Words in reg. 24(f) substituted (27.12.2005) by [The Child Trust Funds \(Amendment No. 3\) Regulations 2005 \(S.I. 2005/3349\)](#), regs. 1, **7(c)**

#### Marginal Citations

- M1** 1988 c. 1.
- M2** 1996 c. 8; paragraph 3 was substituted by section 65 of the [Finance Act 1999 \(c. 16\)](#).

### Tax liabilities and reliefs—account provider to act on behalf of the named child

**25.—(1)** An account provider may under these Regulations make tax claims, conduct appeals and agree on behalf of the named child (or of the registered contact in respect of the child) liabilities for and reliefs from tax in respect of an account.

(2) Tax claims shall be made to the Board in accordance with the provisions of regulations 26 and 27.

(3) Where any relief or exemption from tax previously given in respect of an account has by virtue of these Regulations become excessive, in computing the relief due on any claim there shall be deducted (so that amounts equal to that excess are set-off or repaid to the Board, as the case may be) notwithstanding that those amounts have been invested, any other amount of tax due to the Board by the account provider in respect of any tax liability in respect of account investments under an account including (but without prejudice to the making of an assessment under that Schedule) any amount falling due in respect of a liability under paragraph 3 or 4 of Schedule 23A to the Taxes Act.

### Repayments in respect of tax to account provider—interim tax claims

**26.—(1)** Notwithstanding the provisions of any other enactment, the Board shall not be under an obligation to make any repayment in respect of tax under these Regulations earlier than the end of the month following the month in which the claim for the repayment is received.

(2) A claim for repayment in respect of tax which is not an annual claim (“interim tax claim”) may be made only for a period of a month (or a number of months not exceeding six) beginning on the 6th day of the month and ending on the 5th day of the relevant following month.

(3) No claim for repayment may be made for the month ending 5th October or any subsequent month in a year until the annual claim due under regulation 27(2) in respect of an account for the preceding year has been duly made by the account provider and received by the Board.

(4) Where, on the occasion of a claim, there is due to the Board an amount in respect of tax, that amount shall be recoverable by the Board in the same manner as tax charged by an assessment on the account provider which has become final and conclusive.

(5) This regulation and regulation 27 shall not apply to any repayment in respect of tax on account investments falling within regulation 12(2)(m) (life insurance), or on distributions and other rights or proceeds in respect of those investments.

### Repayments in respect of tax to account provider—annual tax claims

27.—(1) An annual tax claim is a claim for repayment in respect of tax for a year and may not be made at any time more than six years after the end of the year.

(2) Where the account provider—

- (a) has made at least one interim tax claim during a year, or
- (b) wishes to reclaim tax, or there is due to the Board an amount in respect of tax, following the end of the year,

the account provider shall within six months after the end of the year make an annual tax claim to establish the total of tax repayments due under an account for that year.

(3) Where the aggregate of the repayments in respect of interim tax claims for the year shown by an annual tax claim exceeds the amount of tax repayable for the year shown on the claim, the account provider shall repay the amount of the excess to the Board with the claim.

(4) If an account provider fails to make the annual tax claim required under paragraph (2)(a) within the time limited, the Board may issue a notice to the account provider showing the aggregate of payments in respect of the interim tax claims for the year, and stating that the Board are not satisfied that the amount due to the account provider for that year exceeds the lower amount stated in the notice.

(5) If an annual tax claim is not delivered to the Board within 14 days after the issue of a notice under paragraph (4) the amount of the difference between the aggregate and the lower amount stated in the notice shall immediately become recoverable by the Board in the same manner as tax charged by an assessment on the account provider which has become final and conclusive.

(6) Where an annual tax claim has been made and the account provider subsequently discovers that an error or mistake has been made in the claim the account provider may make a supplementary annual claim within the time allowed in paragraph (1).

### Account provider’s tax claims—supplementary provisions

28.—(1) Section 42 of the Management Act shall not apply to tax claims under these Regulations.

(2) No appeal shall lie from the Board’s decision on an interim tax claim.

(3) An appeal shall be to the Special Commissioners from the Board’s decision on an annual tax claim, and the appeal shall be brought by giving notice to the Board within 30 days of receipt of notice of the decision.

(4) No payment or repayment made or other thing done on or in relation to an interim tax claim or a notice under regulation 27(4) shall prejudice the decision on an annual tax claim.

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(5) The provisions contained in Part 5 of the Management Act (appeals and other proceedings) shall apply to an appeal under paragraph (3) above, and on appeal the Special Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.

(6) All such assessments, payments and repayments shall be made as necessary to give effect to the Board's decision on an annual tax claim or to any variation of that decision on appeal.

(7) Claims under these Regulations shall be in such form and contain such particulars as the Board prescribe and, subject to regulation 32(1), shall be signed by the account provider, and forms prescribed for annual claims may require a report to be given by a person qualified for appointment as auditor of a company.

### **Assessments for withdrawing relief and recovering tax**

**29.**—(1) Where—

- (a) any relief or exemption from tax given in respect of income or gains under an account is found not to be due or to be excessive, or
- (b) the full amount of tax in respect of the income or gains under an account has not otherwise been fully accounted for and paid to the Board on behalf of the named child,

an assessment to tax may be made by the Board in the amount or further amount which in their opinion ought to be charged.

(2) An assessment to which paragraph (1) refers may be made on the account provider or on the registered contact (in respect of the child where the child is under the age of 16).

(3) If the assessment is made to recover tax in respect of income under an account it shall be made under Case VI of Schedule D.

(4) Sections 72 and 73 of the Management Act shall be modified in relation to accounts, so that—

- (a) references to a parent or guardian include a reference to the registered contact for an account held by the named child, and
- (b) references to an incapacitated person, in relation to Scotland, are to a person under the age of 16 years.

### **Fortnightly claim and financial returns**

**30.**—(1) In this regulation—

“fortnightly period” means a period—

- (a) beginning on the 1st, and ending on the 15th, day of a calendar month, or
- (b) beginning on the 16th, and ending on the last, day of a calendar month;

“first return period”, in relation to account providers approved with effect from a date between 1st January 2005 and 28th February 2005, means the period beginning on the date on which the approval takes effect and ending on 28th February 2005;

“second return period”, in relation to account providers approved with effect from a date between 1st January 2005 and 31st March 2005, means the period beginning on the later of 1st March 2005 and the date on which the approval takes effect, and ending on 31st March 2005;

“initial return period”, in relation to account providers approved later, means the period—

- (a) beginning on the date on which the approval takes effect, or the appointed day (whichever is the later), and
- (b) ending simultaneously with the end of the current fortnightly period.

(2) The following provisions of this regulation apply to an account provider in relation to—

(a) that provider's first, second or initial return period, and  
(b) each succeeding fortnightly period (other than succeeding a first return period),  
during which, or during any part of which, he acted as an account provider.

(3) Within—

- (a) ten days of the end of a provider's first return period (if any), and  
(b) five days of the end of any other period mentioned in paragraph (2),

the account provider shall deliver by means of electronic communications to the Board, a return for that period, in a form specified by the Board.

(4) The return shall include a declaration of the information in paragraph (5), and a claim as mentioned in paragraph (6) (in each case, stated separately for each account, quoting the named child's unique reference number and date of birth).

(5) The information is that, during that period—

- (a) the account provider has opened an account in accordance with regulation 5<sup>F7</sup>...;  
(b) the account provider has opened a Revenue allocated account in accordance with regulation 6;  
(c) an account has been transferred to the account provider in accordance with regulation 21, and is held with the account provider at the end of the period; or  
(d) an account has been closed, due to the named child dying under the age of 18 (and the date of death).

(6) The claim is—

- (a) where paragraph (5)(a) or (b) applies, a claim for the initial contribution or special contribution due to the account in accordance with regulation 7(1) to (4); <sup>F8</sup>...  
(b) where the Inland Revenue have informed the account provider that section 9 of the Act applies to the named child, a claim for the supplementary contribution due to the account in accordance with regulation 7(5) to (7)<sup>F9</sup>; and  
(c) where the Inland Revenue have informed the account provider that paragraph (10) of regulation 7 applies to the named child, a claim for the further contribution due to the account in accordance with that paragraph.]

(7) Paragraphs (5)(a) and (b) and (6)(a) and (b) shall apply notwithstanding any transfer of the account to another account provider under regulation 21, before the end of the period in question.

#### Textual Amendments

- F7** Words in [reg. 30\(5\)\(a\)](#) omitted (7.2.2006) by virtue of [The Child Trust Funds \(Amendment\) Regulations 2006 \(S.I. 2006/199\)](#), [regs. 1, 5](#)
- F8** Word in [reg. 30\(6\)](#) omitted (6.4.2005) by virtue of [The Child Trust Funds \(Amendment\) Regulations 2005 \(S.I. 2005/383\)](#), [regs. 1, 5](#)
- F9** [Reg. 30\(6\)\(c\)](#) and preceding word added (6.4.2005) by [The Child Trust Funds \(Amendment\) Regulations 2005 \(S.I. 2005/383\)](#), [regs. 1, 5](#)

#### Records to be kept by account provider

**31.**—(1) An account provider shall at all times keep sufficient records in respect of an account to enable the requirements of these Regulations to be satisfied.

(2) In particular, an account provider shall produce (when required to do so by an officer of the Board) any—

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- (a) application made under regulation 13(1) or (10),
- (b) voucher given to him,
- (c) annual statement issued by him, and
- (d) transfer notice given to him under regulation 21(4),

or electronic copies, within the period of 3 years from when it was made, issued or given (notwithstanding any transfer of the account under regulation 21).

**Returns of information by account provider**

32.—(1) An account provider shall within 60 days after the end of each year in which he acts as an account provider, and after ceasing to act or to qualify as an account provider, deliver by means of electronic communications to the Board a return for that year, or for the part of that year in which he so acted or qualified, in a form specified by the Board, which contains the information specified in paragraph (2).

(2) The information specified in this paragraph is information relating to each account in respect of which he acted as account provider, in the year or the part of the year for which the return is made, other than accounts transferred to another account provider under regulation 21 in that year or part of a year, as to—

- (a) as regards the named child—
  - <sup>F10</sup>(i) .....
  - <sup>F10</sup>(ii) .....
  - (iii) his unique reference number;
- (b) as regards each such account—
  - (i) whether or not the account is a stakeholder account,
  - (ii) whether or not there is a registered contact for the account,
  - (iii) the aggregate market value of the account investments held under the account, subject to paragraph (3), the value of each account investment being determined either as at 5th April in that year, or any other valuation date not falling earlier than 5th October in that year, and
  - (iv) the total amount of cash subscribed to the account, in the subscription year ending during the year or the part of the year for which the return is made.

- (3) The reference in paragraph (2)(b)(iii) to market value shall be construed—
  - (a) in the case of policies of life insurance, as a reference to their surrender value, and
  - (b) as referring to separate values for—
    - (i) cash falling within regulation 12(2)(k) or (l), and
    - (ii) policies of life insurance and all other account investments.

(4) No claim for repayment, or repayment, may be made under regulations 26 and 27 until the returns which have become due under this regulation have been duly made by the account provider and received by the Board.

**Textual Amendments**

**F10** Reg. 32(2)(a)(i)(ii) omitted (6.4.2005) by virtue of [The Child Trust Funds \(Amendment No. 2\) Regulations 2005 \(S.I. 2005/909\)](#), regs. 1, 9

### Information about “looked after children” from Local Authorities

33.—(1) In this regulation—

“local authority” includes an authority within the meaning of the Children (Northern Ireland) Order 1995<sup>M3</sup>;

“looked after and accommodated child”, in Scotland, means a child who is—

- (a) both looked after, and provided with or placed in accommodation, by a local authority within the meaning of those expressions in Part 2 of the Children (Scotland) Act 1995<sup>M4</sup>, or
- (b) accommodated by a local authority under section 22 of that Act, and related expressions shall be construed accordingly;

“looked after child”—

- (a) in England and Wales, has the meaning in section 22(1) of the Children Act 1989<sup>M5</sup>, extended to include a child accommodated by a local authority under section 17 of that Act, and
- (b) in Northern Ireland, means a child accommodated under Part 4 of the Children (Northern Ireland) Order 1995,

and related expressions shall be construed accordingly;

“return period” means a period—

- (a) beginning on the day immediately succeeding the appointed day, and ending one month after the appointed day, and
- (b) each succeeding period of one month.

(2) Within one month of the appointed day, every local authority shall deliver by means of electronic communications to the Board, a return in a form specified by the Board, which contains the information in paragraph (3) for every child who was—

- (a) looked after (in Scotland, looked after and accommodated) by the authority on the appointed day, and
- (b) born after 31st August 2002,

or a return stating that there were no such children.

(3) The information in this paragraph is a statement (prepared separately for each child) of—

- (a) the name of the local authority,
- (b) its address,
- (c) the unique identifier for the local authority,
- (d) the name of the local authority officer responsible for the return,
- (e) the child’s full name, sex and date of birth,

[<sup>F11</sup>(ea) the full name and address of the child’s mother, if known (or failing that, the same information for the child’s father, if known), unless the local authority considers the child’s situation to be particularly sensitive;]

(f) the Home Office reference number, if any, of the child, and

(g) either—

- (i) the full name and address of an individual who has parental responsibility (in Scotland, parental responsibilities) in relation to the child, or
- (ii) if paragraph (i) is considered inappropriate, a correspondence address for the child.

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(4) Within [<sup>F12</sup>ten] days of the end of each return period, every local authority shall deliver by means of electronic communications to the Board a return for that period in a form specified by the Board, covering every child—

- (a) born after 31st August 2002, and
- (b) who during that period has become a child looked after (in Scotland, looked after and accommodated) by that authority, for the first time since the appointed day,

or a return stating that there were no such children.

(5) After 31st August 2009, the return in paragraph (4) shall in addition cover every child who was looked after (in Scotland, looked after and accommodated) on his 7th birthday.

(6) The return in paragraph (4) shall consist of a statement (prepared separately for each child) of—

- (a) the information in paragraph (3),
- (b) the date on which the child first became a child looked after (in Scotland, looked after and accommodated) by that authority,
- (c) where the child has also died during that period, the name and address of his personal representatives<sup>F13</sup>,

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.]

[<sup>F14</sup>(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.]

[<sup>F15</sup>(8) Regulations 34 and 35 shall apply to local authorities, as if, in those regulations, for—

- (a) “relevant person” there were substituted “local authority”; and
- (b) references to an account or account investments there were substituted references to returns, forms or children mentioned in this regulation and regulation 33A,

so far as the Board may reasonably require information to be provided or records to be made available for the purposes of this regulation and regulation 33A.]

#### Textual Amendments

- F11** Reg. 33(3)(ea) inserted (31.10.2006) by [The Child Trust Funds \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/2684\)](#), regs. 1, **3**
- F12** Word in reg. 33(4) substituted (31.10.2006) by [The Child Trust Funds \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/2684\)](#), regs. 1, **4**
- F13** Words in reg. 33(6) added (6.4.2005) by [The Child Trust Funds \(Amendment\) Regulations 2004 \(S.I. 2004/2676\)](#), regs. 1, **14(a)**
- F14** Reg. 33(7) added (6.4.2005) by [The Child Trust Funds \(Amendment\) Regulations 2004 \(S.I. 2004/2676\)](#), regs. 1, **14(b)**
- F15** Reg. 33(8) added (6.4.2005) by [The Child Trust Funds \(Amendment No. 2\) Regulations 2004 \(S.I. 2004/3382\)](#), regs. 1, **4**

#### Marginal Citations

- M3** [S.I. 1995/755 \(N.I. 2\)](#).
- M4** [1995 c. 36](#).
- M5** [1989 c. 41](#).

**[<sup>F16</sup>The Official Solicitor or Accountant of Court to be the person who has the authority to manage an account**

- 33A.**—(1) Every local authority shall be under a duty to —
- (a) identify any child born after 31st August 2002 and under 16, who falls within the circumstances specified in paragraph (2) and, for each such child,
  - (b) deliver a form (as part of the return required by regulation 33(2) or (4), as the case may be) in accordance with paragraph (3)(a).
- (2) The circumstances specified are where—
- (a) the child is looked after (in Scotland, looked after and accommodated) by the local authority, and
  - (b) at least one of the following conditions is satisfied.

*Condition 1*

There is no person, or no person other than the local authority, who has parental responsibility (in Scotland, parental responsibilities) for the child.

*Condition 2*

It is part of the care plan for the child that—

- (a) (a) the child will live indefinitely away from home (or his former home), and
- (b) the child will not have face to face contact with any parent having parental responsibility (in Scotland, parental responsibilities) for the child.

*Condition 3*

An order has been made under section 34(4) of the Children Act 1989 or Article 53(4) of the Children (Northern Ireland) Order 1995, authorising the local authority to refuse to allow contact between the child and any person with parental responsibility (or, in Scotland, a supervision requirement made with a condition regulating contact under section 70(5)(b) of the Children (Scotland) Act 1995 that the child shall have no contact with a person with parental responsibilities), and there is no other individual with parental responsibility (in Scotland, parental responsibilities) for the child to act as registered contact.

*Condition 4*

The Court of Protection has—

- (a) (a) appointed a receiver for a person with parental responsibility for the child, or
- (b) (b) determined that such a person is a “patient” for the purposes of Part 7 of the Mental Health Act 1983,

and there is no other individual with parental responsibility for the child to act as registered contact.

In Scotland, in this Condition for—

- (a) (a) “Court of Protection” substitute “Sheriff”,
- (b) (b) “receiver” substitute “guardian appointed under section 58 of the Adults with Incapacity (Scotland) Act 2000”,
- (c) (c) the reference to a patient, substitute “incapable for the purposes of the Adults with Incapacity (Scotland) Act 2000,” and
- (d) (d) “parental responsibility” substitute “parental responsibilities”.

*Condition 5*

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The child has been lost or abandoned, and there is no prospect for the foreseeable future of reunification of the child with a parent having parental responsibility (in Scotland, parental responsibilities) for the child.

In this Condition, “lost or abandoned”—

- (a) (a) in England and Wales, has the meaning in section 20(1)(b) of the Children Act 1989;
- (b) (b) in Northern Ireland, has the meaning in Article 21(1)(b) of the Children (Northern Ireland) Order 1995; and
- (c) (c) in Scotland, has the meaning in section 25(1)(b) of the Children (Scotland) Act 1995.

*<sup>F17</sup>Condition 6*

In England and Wales, an adoption agency or local authority has been authorised to place the child for adoption under section 19, or by a placement order under section 21, of the Adoption and Children Act 2002, or

in Northern Ireland, an Order has been made under Article 17 or 18 of the Adoption (Northern Ireland) Order 1987 to free the child for adoption.]

(3) Where—

- (a) the local authority (by a means authorised by regulation 33) delivers to the Board a form specified by the Board, giving particulars of the child and of the circumstances specified in paragraph (2) relevant to the child, and
- (b) the Board (subject to checking and if necessary correcting the contents of the form) delivers it to the Official Solicitor (where the child is in England and Wales or Northern Ireland) or the Accountant of Court (where the child is in Scotland),

the Official Solicitor or Accountant of Court, as the case may be, shall be the person who has the authority to manage the child’s account for the purposes of section 3(6)(b) of the Act.

(4) The Official Solicitor or Accountant of Court shall cease to be the person who has the authority to manage the child’s account (and shall be discharged from the duties of registered contact) where—

- (a) the child attains the age of 16,
- (b) in any case where the child is under 16 and still looked after (in Scotland, looked after and accommodated) by a local authority—
  - (i) the local authority confirms to the Official Solicitor or Accountant of Court that there is a named responsible person in relation to the child, who is able to be the registered contact for the child’s account, and that none of the Conditions in paragraph (2) applies, and
  - (ii) the Official Solicitor or Accountant of Court cancels his declaration and authorisation in accordance with regulation 13(7) and is replaced as registered contact by that responsible person, in accordance with regulation 13(10), or
- (c) in any case where the child is under 16 and is not looked after (in Scotland, looked after and accommodated) by a local authority—
  - (i) a responsible person for the child provides evidence to the satisfaction of the Official Solicitor or Accountant of Court, as the case may be, that he has parental responsibility for the child, and
  - (ii) the Official Solicitor or Accountant of Court cancels his declaration and authorisation in accordance with regulation 13(7) and is replaced as registered contact by that responsible person, in accordance with regulation 13(10).

(5) A local authority shall, for the purposes of paragraph (4), confirm to the Official Solicitor or Accountant of Court, as the case may be—

- (a) whether the child is still looked after (in Scotland, looked after and accommodated) by the authority, and
  - (b) the identity of the person or persons who had parental responsibility for the child at the date when he ceased to be looked after (in Scotland, looked after and accommodated) by the authority (or, at the option of the authority, any later date).
- (6) Expressions defined in regulation 33 shall bear the same meanings in this regulation.]

#### **Textual Amendments**

- F16** Reg. 33A inserted (6.4.2005) by [The Child Trust Funds \(Amendment No. 2\) Regulations 2004 \(S.I. 2004/3382\)](#), regs. 1, 5
- F17** Words in reg. 33A(2) added (31.10.2006) by [The Child Trust Funds \(Amendment No. 2\) Regulations 2006 \(S.I. 2006/2684\)](#), regs. 1, 5

#### **Information to be provided to the Board**

**34.** The Board may by notice require any relevant person to furnish them, within such time (not being less than 14 days) as may be provided in the notice, such information about any account or about any account investment (including copies of or extracts from any books or other records) as they may reasonably require for the purposes of these Regulations.

#### **Inspection of records by officer of the Board**

**35.**—(1) The Board may by notice require any relevant person, within such time (not being less than 14 days) as may be provided in the notice, to make available for inspection at a place within the United Kingdom by an officer of the Board authorised for that purpose all documents (including books and other records) in his possession or under his control relating to any account or to any account investment.

(2) Where records are maintained by computer the person required to make them available for inspection shall provide the officer making the inspection with all the facilities necessary for obtaining information from them.

#### **Capital gains tax—adaptation of enactments**

**36.**—(1) For the purposes of capital gains tax—

- (a) any assets held by a named child as account investments shall be regarded as held by the child in a separate capacity from that in which he holds any other assets of the same description; and
- (b) the named child shall be treated as having sold all the account investments, and as having reacquired them in his personal capacity, for a consideration equal to their market value, immediately before he attains the age of 18 years (and ceases to be a child).

(2) Sections 127 to 131 of the 1992 Act <sup>M6</sup> shall not apply in relation to qualifying investments falling within any of sub-paragraphs (a), (b), and (f) to (i) of regulation 12(2) which are held under an account if there is by virtue of any allotment for payment as is mentioned in section 126(2) of that Act a reorganisation affecting those assets.

#### **Marginal Citations**

- M6** 1992 c. 12.

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*Changes to legislation: There are currently no known outstanding effects for the The Child Trust Funds Regulations 2004, PART 3. (See end of Document for details)*

### **Administration of tax in relation to accounts—supplementary**

**37.**—(1) Nothing in these Regulations shall be taken to prejudice any powers conferred or duties imposed by or under any enactment in relation to the making of returns of income or gains, or for the recovery of tax, penalties or interest by means of an assessment or otherwise.

(2) Notwithstanding the provisions of these Regulations an account provider shall not be released from obligations under these Regulations in relation to an account except under conditions agreed in writing with and notified to that person by the Board.

(3) The provisions contained in the Management Act<sup>M7</sup> shall apply to any assessment under these Regulations as if it were an assessment to tax for the year in which, apart from these Regulations, the named child would have been liable (by reason of his ownership of the investments).

(4) No obligation as to secrecy imposed by statute or otherwise shall preclude the Board from disclosing to an account provider or registered contact that any provision of these Regulations has not been satisfied or that relief has been given or claimed in respect of investments under an account.

(5) If—

- (a) a chargeable event, within the meaning given by Chapter 2 of Part 13 of the Taxes Act<sup>M8</sup>, has happened in relation to a policy of life insurance which is an account investment, and
- (b) the body by whom the policy was issued is satisfied that no gain is to be treated as chargeable to tax on the happening of the event by virtue of regulation 24(a)(v),

the body shall not be obliged to deliver the certificates mentioned in section 552(1) of that Act. This paragraph does not prevent the operation of section 552(1) in a case to which regulation 38(1) applies.

(6) Where—

- (a) it comes to the notice of the account provider, in any manner, that the event specified in regulation 12(11) has occurred in relation to a policy, and
- (b) the account provider is not the insurer for the time being responsible for the obligations under the policy or, where the policy is not still in existence, the person who was the last such insurer,

the account provider shall, within 30 days of the event coming to his notice give notice to that insurer, specifying the event mentioned in sub-paragraph (a) and the termination event.

#### **Marginal Citations**

**M7** 1970 c. 9.

**M8** 1988 c. 1.

### **Application of the provisions of Chapter 2 of Part 13 of the Taxes Act to policies**

**38.**—(1) This paragraph applies to a case where—

- (a) the event specified in regulation 12(11) has occurred in relation to a policy of life insurance, and
- (b) a termination event within the meaning in regulation 12(12) occurs in relation to that policy.

(2) Where—

- (a) there is a case to which paragraph (1) applies, and

- (b) a chargeable event in relation to the policy, within the meaning given by section 540 of the Taxes Act, has occurred prior to the time at which the termination event mentioned in paragraph (1)(b) occurs,

the named child shall cease to be, and shall be treated as not having been, entitled to relief from tax under regulation 24(a)(v), in respect of gains treated as arising on the occurrence of any chargeable event mentioned in sub-paragraph (b).

(3) The provisions of Chapter 2 of Part 13 of the Taxes Act shall apply, in a case to which paragraph (1) applies, to—

- (a) the termination event mentioned in paragraph (1)(b), and
- (b) any chargeable event mentioned in paragraph (2)(b),

with the modifications provided for in paragraphs (4) to (8) of this regulation, and the registered contact and the account provider shall account to the Board in accordance with this regulation for tax from which relief under regulation 24 has been given on the basis that the named child was so entitled, or in circumstances such that the named child was not so entitled.

(4) A termination of a policy of insurance pursuant to regulation 12(9)(b)(ii) shall be treated as the surrender in whole of the rights conferred by the policy, for the purposes of section 540(1)(a)(iii) of the Taxes Act.

(5) In section 547(5) of the Taxes Act, for the words after “total income” (where that expression first appears) substitute “ “that gain shall be chargeable to tax under Case VI of Schedule D ””.

(6) Relief under section 550 of the Taxes Act shall be computed as if paragraph (5) had not been enacted.

(7) In section 552 of the Taxes Act—

- (a) in subsection (1)(b) for “policy holder” substitute “ “named child ””;
- (b) in subsection (3)—
  - (i) omit “(or, where the appropriate policy holder is a company, the corresponding financial year)”;
  - (ii) for “the name and address of the appropriate policy holder” substitute “ the name and address of the named child ”;
  - (iii) omit “and the corresponding financial year.”;
- (c) in subsection (5)—
  - (i) for “the appropriate policy holder” substitute “ the named child ”;
  - (ii) omit sub-paragraph (b)(ii);
  - (iii) omit paragraph (c);
  - (iv) in paragraph (d) omit “except where paragraph (c) above applies.”;
  - (v) omit paragraph (f);
- (d) in subsection (6)—
  - (i) omit paragraph (b);
  - (ii) for paragraph (c) substitute—
    - “(c) if the event is a death, the period of three months beginning with the receipt of written notification of the death.”;
  - (iii) after paragraph (c) insert—
    - “(d) if the event is—
      - (i) a termination event, or

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- (ii) a chargeable event preceding a termination event (as mentioned in regulation 38(2) of the Child Trust Funds Regulations 2004),  
the period of three months beginning with the date on which the insurer received notice under regulation 37(6) of those Regulations or, if earlier, actual notice of the termination event.”;
- (e) in subsection (7)—
- (i) in paragraph (a) omit “, or, where the policy holder is a company, the financial year,”;
- (ii) omit paragraph (b);
- (iii) for paragraph (c) substitute—
- “(c) if the event is a death, the period of three months beginning with the receipt of written notification of the death;”;
- (iv) after paragraph (c) insert—
- “(ca) if the event is—
- (i) a termination event, or
- (ii) a chargeable event preceding such a termination event (as mentioned in regulation 38(2) of the Child Trust Funds Regulations 2004,  
the period of three months beginning with the date on which the insurer received notice under regulation 37(6) of those Regulations or, if earlier, actual notice of the termination event.”; and
- (v) in paragraph (d) after “paragraph (c)” insert “ or (ca) ”;
- (f) in subsection (8)—
- (i) in paragraph (b) for “policy holder” substitute “ named child in respect ”;
- (ii) in paragraph (c) omit the words from “or” to the end;
- (g) in subsection (9) omit “or financial year” in each place where they occur;
- (h) in subsection (10)—
- (i) before the definition of “amount” insert—
- ““named child” has the same meaning as in the Child Trust Funds Regulations 2004;”;
- (ii) omit the definitions of “appropriate policy holder” and “financial year”;
- (iii) for the definition of “the relevant year of assessment” substitute—
- ““the relevant year of assessment”, in the case of any gain, means the year of assessment to which the gain is attributable;”;
- and
- (iv) after the definition of “section 546 excess” insert—
- ““termination event” has the same meaning as in the Child Trust Funds Regulations 2004;”;
- and
- (v) omit subsection (11).
- (8) In section 552ZA of the Taxes Act—
- (a) in subsection (2)(b) omit the words “or an assignment”; and
- (b) omit subsections (3) and (4).
- (9) The account provider shall account for and pay income tax at the lower rate in force for the year in which the termination event, or the chargeable event mentioned in paragraph (2)(b) occurred, as the case may be, and any amount so payable—

- (a) may be set off against any repayment in respect of tax due under regulation 26 or 27 and subject thereto,
  - (b) shall be treated as an amount of tax due not later than 6 months after the end of the year in which the event specified in regulation 12(11) came to the notice of the account provider, and
  - (c) shall be payable without the making of an assessment.
- (10) Where tax is charged in accordance with paragraph (3)(a) or (b)—
- (a) an assessment to income tax at the lower rate in force for the relevant year may be made on the account provider or on the registered contact (on behalf of the named child), and
  - (b) an assessment to income tax at the higher rate within the meaning of section 832(1) of the Taxes Act, for that year, may be made on the registered contact (on behalf of the named child) within five years after the 31st January next following that year, and regulation 29 shall not apply.

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**Changes to legislation:**

There are currently no known outstanding effects for the The Child Trust Funds Regulations 2004, PART 3.