
STATUTORY INSTRUMENTS

2004 No. 3382

The Child Trust Funds (Amendment No. 2) Regulations 2004

Amendments to the Child Trust Funds Regulations 2004

5. After regulation 33 insert—

“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) 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⁽¹⁾ or Article 53(4) of the Children (Northern Ireland) Order 1995⁽²⁾, 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⁽³⁾ 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—

⁽¹⁾ 1989 c. 41.

⁽²⁾ S.I. 1995/755 (N.I. 2).

⁽³⁾ 1995 c. 36.

- (a) appointed a receiver for a person with parental responsibility for the child, or
- (b) determined that such a person is a “patient” for the purposes of Part 7 of the Mental Health Act 1983⁽⁴⁾,

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

In Scotland, in this Condition for—

- (a) “Court of Protection” substitute “Sheriff”,
- (b) “receiver” substitute “guardian appointed under section 58 of the Adults with Incapacity (Scotland) Act 2000⁽⁵⁾”,
- (c) the reference to a patient, substitute “incapable for the purposes of the Adults with Incapacity (Scotland) Act 2000,” and
- (d) “parental responsibility” substitute “parental responsibilities”.

Condition 5

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

(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

(4) 1983 c. 20.

(5) 2000 asp 4.

- (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.”.