

EXPLANATORY MEMORANDUM TO
THE CHILD BENEFIT AND GUARDIAN'S ALLOWANCE
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2009

2009 No. 3268

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs ("HMRC") and Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 These Regulations make amendments to Regulations dealing with the payment of child benefit and guardian's allowance, to enable claims to be made in the future either in writing (as at present) or by such other means as the Commissioners for HMRC may designate. They make minor changes to the definition of terms in the Child Benefit Regulations to ensure consistency with Tax Credits Regulations. They also amend and simplify Regulations relating to child benefit and guardian's allowance, including the facilitation of claims and the extinguishment of a person's right to payment of child benefit.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 These Regulations amend the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 ("the Administration Regulations") (S.I. 2003/492), the Child Benefit and Guardian's Allowance (Decisions and Appeals) Regulations 2003 ("the Appeals Regulations") (S.I. 2003/916), the Child Benefit (General) Regulations 2006 ("the General Regulations") (S.I. 2006/223) and the Guardian's Allowance (General) Regulations 2003 ("the Guardian's Allowance Regulations") (S.I. 2003/495).

5. **Territorial Extent and Application**

5.1 This instrument applies to the whole of the United Kingdom.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to annulment and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

Amendments to the Administration Regulations – regulation 3

7.1 At present, all claims for child benefit or guardian's allowance, and all applications for an extension of entitlement of child benefit or guardian's allowance, are required by Regulations to be made in writing. The amendments made by regulation 3(2) of these Regulations amend the Administration Regulations to enable the Commissioners for HMRC to specify other means by which claims, and requests for extensions, to entitlement may be made. In the first instance, the intention is to enable people to make claims by telephone, in appropriate circumstances, as is the effect of present Tax Credits Regulations. As well as providing a better service to the customer, this approach will enable the Commissioners to widen progressively the availability of the telephone service, in the light of assessments of any associated risks.

7.2 Regulation 3(3) deals with claims for child benefit or guardian's allowance. Currently, these must be made in writing. This amendment will enable the Commissioners for HMRC to specify another manner in which they may be made, for example to allow claims to be made by telephone.

7.3. Regulation 3(4) extends the category of persons who may elect to have child benefit paid weekly.

7.4 Regulation 3(5) amends regulation 26 of the Administration Regulations, which currently provides for the extinguishment to a person's right to payment where an instrument of payment has not been en-cashed within 12 months of its issue. This provision was introduced when most people received their payment of benefits by the en-cashment of a serial order contained in an order book.

7.5 This method of payment is no longer available and the overwhelming majority of payments are made by automated credit transfer to the person's bank or building society account, or into a post office card account. In such cases, once the credit transfer has been made the right to payment cannot be lost as payment will already have been made. The only instrument of payment now issued to pay child benefit and guardian's allowance is an en-cashable cheque.

7.6 The amendment to regulation 26 of the Administration Regulation reflects this arrangement for payment by continuing to provide that a person's right to payment is extinguished if a cheque has not been cashed within 12 months of issue.

Amendments to the Appeals Regulations and the Guardian's Allowance Regulations – regulations 4 and 6

7.7 Regulations 4 and 6 make similar amendments to the Appeals Regulations and the Guardian's Allowance Regulations respectively as regulation 3(2)

makes to the Administration Regulations and which is discussed in paragraph 7.1 above.

Amendments to the General Regulations – regulation 5

7.8 Regulation 5.2 makes a similar amendment to the General Regulations as regulation 3(2) makes to the Administration Regulations and which is discussed in paragraph 7.1 above.

7.9 Regulation 5.3 amends the definition of “approved training”, to take into account a new training provision in Northern Ireland which came into force in September 2009.

7.10 The purpose of regulations 5(4) and (5) is to deal with payment of child benefit in respect of persons who attain the age of 16 on 31 August. At present, the payment of child benefit for a child who turns 16 continues until 31st August following the child’s 16th birthday. From 1st September onwards, they must meet normal conditions of a Qualifying Young Person (QYP) in that they continue with full-time non-advanced education or approved training. To clarify the circumstance of a child who turns 16 on 31st August in any year, regulation 5(4) and (5) provides that if the child does not continue with full-time non-advanced education or approved training, then the child benefit in respect of that child will cease on 1st September immediately following the child’s 16th birthday.

7.11 The General Regulations currently provide that claims for an extension of child benefit must be made in writing. Regulation 5(6) extends this to provide that claims may be made either in writing or in such manner as the Commissioners for HMRC may accept. In particular, this is intended to facilitate the making of claims for the extension of child benefit by telephone.

Consolidation

HMRC publishes consolidated Regulations on their web site. These will be made available as soon as possible after the Statutory Instrument is published.

8. Consultation outcome

No formal consultation has taken place.

9. Guidance

HMRC guidance on child benefit and guardian’s allowance will be amended to reflect these changes.

10. Impact

An Impact Assessment has not been prepared for this instrument as it has a negligible impact on business, charities or voluntary bodies.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

HMRC will keep these Regulations under review.

13. Contact

Jenny Fox at Her Majesty's Revenue and Customs. Tel: 020 7147 2503 or email: jenny.fox@hmrc.gsi.gov.uk can answer any queries regarding the instrument.