

EXPLANATORY MEMORANDUM TO
THE CHILD BENEFIT AND GUARDIAN'S ALLOWANCE
(ADMINISTRATION) (AMENDMENT) REGULATIONS 2010

2010 No. 2459

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

2. **Purpose of the instrument**

These Regulations make amendments to Regulations dealing with the payment of child benefit and guardian's allowance to provide that payment of them to a person shall be by direct credit transfer into a bank account or other account (e.g. a Post Office card account) that has been notified to HMRC for the purpose of payment of certain benefits (e.g. child benefit) or tax credits except where payment is made by other means because direct payment into an account is not appropriate in any particular case.

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

None.

4. **Legislative Context**

4.1 These Regulations amend the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 (S.I. 2003/492) ("the Administration Regulations"). Until the amendments made by these regulations-

- regulation 16 of the Administration Regulations provided that, subject to regulation 17, HMRC would pay child benefit and guardian's allowance by means of an instrument of payment or by such other means as appeared to be appropriate in the circumstances of the case; and
- regulation 17 enabled HMRC to make an arrangement with a person claiming or entitled to child benefit or guardian's allowance to make payment by way of direct credit transfer to a bank or other account.

4.2 These Regulations substitute regulations 16 and 17 of the Administration Regulations to provide that HMRC will make payment of child benefit and guardian's allowance to which a person is entitled by direct credit to a bank or other account unless paid by another means because it appears to the Commissioners appropriate to do so in the circumstances of the case. The

bank or other account to which HMRC will make payment of child benefit or guardian's allowance includes not only an account notified for those purposes but also-

- an account notified for the purposes of payment of other benefits described in section 5(2) of the Social Security Administration Act 1992 (c. 5) (and the comparable provision in the Social Security Administration (Northern Ireland) Act 1992 (c. 8)); and
- an account notified for the purposes of payment of the tax credits described in section 1 of the Tax Credits Act 2002 (c. 21).

4.3 Consequential amendments are made to 25(a), 27(2)(a), 29(4)(a) and 35(1)(a) and (2)(b) of the Administration Regulations.

5. Territorial Extent and Application

This instrument applies to the whole of the United Kingdom.

6. European Convention on Human Rights

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*

7.1 The Administration Regulations are being amended so that the normal method for paying child benefit and guardian's allowance will be by direct credit transfer into a bank or building society account or a Post Office card account. The current provisions in the Administration Regulations were based on earlier legislation, framed when child benefit and guardian's allowance were paid by the encashment at a Post Office of an order from a book of serial orders or by an encashable cheque. As such, the regulations no longer reflect modern payment methods.

7.2 Where a person is entitled to both child benefit and guardian's allowance, the amendment makes it clear that they will be paid into the same account, or, where payment is not to be made into an account, by the same method.

7.3 The detail of the changes is set out below.

7.4 Regulation 2(a) provides for regulations 16 and 17 of the Administration Regulations to be substituted as described below.

7.5 Paragraph (2) of the new regulation 16 provides that payment shall be made by direct credit transfer into a bank or other account (such as a Post Office card account) that has been notified to HMRC.

7.6 Paragraph (3) of that regulation ensures that child benefit and guardian's allowance are paid into the same account where a person is entitled to both.

7.7 Paragraphs (4) to (6) make provision in respect of the holder of the account into which payment may be made and regarding the timing of payments. These provisions are similar to those applying before the amendments made by these regulations.

7.8 Paragraph (1) of new regulation 17 allows HMRC to pay child benefit and guardian's allowance by means other than direct credit transfer where it is appropriate to do so in a particular case. It is expected that there will be very few cases where this will be necessary but the facility to pay by other means will ensure that vulnerable customers who are unable to operate an account are not disadvantaged.

7.9 Paragraph (2) of the new regulation 17 provides that if a means other than direct credit to a bank or other account is used to pay child benefit, the same means must be used to pay any guardian's allowance due to that person.

7.10 Paragraph (3) of the new regulation 17 provides that an instrument of payment remains the property of HMRC and the circumstances in which an instrument of payment must be returned to HMRC.

7.11 Regulation 2(b) & (c) of these Regulations make consequential amendments to regulations 25(a), 27(2)(a), 29(4)(a) and 35(1)(a) and (2)(b) arising from the amendments to regulations 16 and 17.

- ***Consolidation***

7.12 HMRC has no current plans to consolidate the regulations.

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

The impact on business, charities or the voluntary sector is negligible.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

HMRC will keep these Regulations under review.

13. Contact

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