

Draft Order laid before Parliament under section 9(4) of the Electronic Communications Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2002 No.

SOCIAL SECURITY

The Social Security (Electronic Communications) (Child Benefit) Order 2002

Made - - - - 2002
Coming into force - - 28th October 2002

Whereas a draft of this instrument was laid before Parliament in accordance with section 9(4) of the Electronic Communications Act 2000⁽¹⁾ and approved by resolution of each House of Parliament.

Now, therefore, the Secretary of State for Work and Pensions, considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, in exercise of the powers conferred on him by sections 8 and 9 of the Electronic Communications Act 2000 and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Social Security (Electronic Communications) (Child Benefit) Order 2002 and shall come into force on 28th October 2002.

(2) In this Order—

“the Change of Circumstances Regulations” means the Social Security (Notification of Change of Circumstances) Regulations 2001⁽²⁾;

“the Child Benefit Regulations” means the Child Benefit (General) Regulations 1976⁽³⁾;

“the Guardian’s Allowances Regulations” means the Social Security (Guardian’s Allowances) Regulations 1975⁽⁴⁾;

“the principal Regulations” means the Social Security (Claims and Payments) Regulations 1987⁽⁵⁾.

(1) 2000 c. 7.
(2) S.I.2001/3252.
(3) S.I. 1976/965.
(4) S.I. 1975/515.
(5) S.I. 1987/1968.

Amendment of the principal Regulations

2. In regulation 2(1)(6) of the principal Regulations (interpretation)—
 - (a) immediately before the definition of “appropriate office” there shall be inserted—

““the 2000 Act” means the Electronic Communications Act 2000;”;
 - (b) after the definition of “disabled person’s tax credit” there shall be inserted—

““electronic communication” has the same meaning as in section 15(1) of the 2000 Act;”.
3. After regulation 4B(7) of the principal Regulations (forwarding claims and information) there shall be inserted—

“Electronic claims for benefit

- 4C.—(1) Any claim for benefit in relation to which this regulation applies, and any certificate, notice, information or evidence given in connection with that claim, may be made or given by means of an electronic communication, in accordance with the provisions set out in Schedule 9C.
 - (2) This regulation applies in relation to child benefit.”.
4. After regulation 32 of the principal Regulations (information to be given when obtaining payment of benefit) there shall be inserted—

“Information given electronically

- 32A.—(1) Where this regulation applies a person may give any certificate, notice, information or evidence required to be given and in particular may give notice of any change of circumstances required to be notified under regulation 32 by means of an electronic communication, in accordance with the provisions set out in Schedule 9C.
 - (2) This regulation applies in relation to child benefit.”.
5. After Schedule 9B(8) to the principal Regulations (deductions from benefit in respect of child support maintenance and payment to persons with care) there shall be inserted the Schedule set out in the Schedule to this Order.

Amendment of the Child Benefit Regulations

6. After regulation 2 of the Child Benefit Regulations (special provisions as to contributions and expenditure in respect of a child) there shall be inserted—

“Electronic elections etc.

- 2A. A person may give any nomination, election or notice which is required or may be given under regulations 2(9), 13 or 14 by means of an electronic communication in accordance with the provisions set out in Schedule 9C to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).”.

(6) Relevant amending instruments are S.I. [1999/2572](#) and S.I. [1999/3178](#).

(7) Regulation 4B was inserted by S.I. [1999/3108](#).

(8) Schedule 9B was inserted by S.I. [2001/18](#).

(9) Relevant amending instrument is S.I. [1976/1758](#).

Amendment of the Guardian’s Allowances Regulations

7. After regulation 6A(10) of the Guardian’s Allowances Regulations (prescribed manner of making an election) there shall be inserted—

“Electronic elections

6B. A person may give any election which is required or may be given under regulation 6A above by means of an electronic communication in accordance with the provisions set out in Schedule 9C to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).”.

Amendment of the Change of Circumstances Regulations

8. After regulation 5(1) of the Change of Circumstances Regulations (change affecting other benefit payment or advantage) there shall be inserted—

“(1A) The reference in paragraph (1) to notice “in writing” includes where that notice relates to child benefit, notice given or sent in accordance with Schedule 9C to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).”.

Signed by authority of the Secretary of State for Work and Pensions.

2002

Parliamentary Under-Secretary of State,
Department for Work and Pensions

SCHEDULE

Article 5.

“SCHEDULE 9C

Regulations 4C and 32A

ELECTRONIC COMMUNICATION

PART 1

INTRODUCTION

Interpretation

1. In this Schedule “official computer system” means a computer system maintained by or on behalf of the Secretary of State for the—

- (a) sending or receiving of any claim, certificate, notice, information or evidence; or
- (b) processing or storing of any claim, certificate, notice, information or evidence.

PART 2

ELECTRONIC COMMUNICATION—GENERAL PROVISIONS

Conditions for the use of electronic communication

2.—(1) The Secretary of State may use an electronic communication in connection with claims for, and awards of, child benefit and elections under regulation 6A of the Social Security (Guardian’s Allowances) Regulations 1975 (prescribed manner of making an election).

(2) A person other than the Secretary of State may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Secretary of State.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any claim, certificate, notice, information or evidence delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the Secretary of State any claim, certificate, notice, information or evidence.

(5) The third condition is that any claim, certificate, notice, information or evidence sent by means of an electronic communication is in a form approved for the purpose of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Secretary of State.

(7) Where the person uses any method other than the method approved by the Secretary of State, of submitting any claim, certificate, notice, information or evidence, that claim, certificate, notice, information or evidence shall be treated as not having been submitted.

(8) In this paragraph “approved” means approved by means of a direction given by the Secretary of State for the purposes of this Schedule.

Use of intermediaries

3. The Secretary of State may use intermediaries in connection with—
- (a) the delivery of any claim, certificate, notice, information or evidence by means of an electronic communication; and
 - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

PART 3

ELECTRONIC COMMUNICATION—EVIDENTIAL PROVISIONS

Effect of delivering information by means of electronic communication

4.—(1) Any claim, certificate, notice, information or evidence which is delivered by means of an electronic communication shall be treated as having been delivered, in the manner or form required by any provision of these Regulations, on the day the conditions imposed—

- (a) by this Schedule; and
- (b) by or under an applicable enactment,

are satisfied.

(2) The Secretary of State may, by a direction, determine that any claim, certificate, notice, information or evidence is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

Proof of identity of sender or recipient of information

5. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—
- (a) the sender of any claim, certificate, notice, information or evidence delivered by means of an electronic communication to an official computer system; or
 - (b) the recipient of any such claim, certificate, notice, information or evidence delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, shall be presumed to be the person recorded as such on that official computer system.

Proof of delivery of information

6.—(1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any claim, certificate, notice, information or evidence this shall be presumed to have been the case where—

- (a) any such claim, certificate, notice, information or evidence has been delivered to the Secretary of State, if the delivery of that claim, certificate, notice, information or evidence has been recorded on an official computer system; or
- (b) any such certificate, notice, information or evidence has been delivered by the Secretary of State, if the delivery of that certificate, notice, information or evidence has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such claim, certificate, notice, information or

evidence, this shall be presumed not to be the case, if that claim, certificate, notice, information or evidence delivered to the Secretary of State has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such claim, certificate, notice, information or evidence sent by means of an electronic communication has been received, the time of receipt shall be presumed to be that recorded on an official computer system.

Proof of content of information

7. If it is necessary to prove, for the purpose of any legal proceedings, the content of any claim, certificate, notice, information or evidence sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Social Security (Claims and Payments) Regulations 1987 (“the Claims and Payments Regulations”), the Child Benefit (General) Regulations 1976, the Social Security (Guardian’s Allowances) Regulations 1975 and the Social Security (Notification of Change of Circumstances) Regulations 2001 so as to make provision for claims for child benefit to be made electronically.

Article 1 provides for citation, commencement and interpretation of the Order.

Articles 2, 3, 4 and 5 amend the Claims and Payments Regulations. Article 2 amends regulation 2 of those regulations inserting new definitions into that regulation. Article 3 inserts a new regulation 4C, which authorises the use of electronic communication to make a claim for, and to provide any certificate, notice, information or evidence connected with a claim for child benefit subject to the provisions set out in Schedule 9C. Article 4 inserts a new regulation 32A, which provides for the giving of information in relation to child benefit to be given by means of an electronic communication subject to the provisions set out in Schedule 9C. Article 5 inserts a new Schedule; this Schedule sets out the conditions to be satisfied where a claim for child benefit is made by means of an electronic communication and makes other provisions which apply to any electronic communication made in connection with child benefit.

Article 6 adds a new regulation 2A to the Child Benefit (General) Regulations 1976 to provide that any nomination, election or notice given under regulations 2, 13 or 14 of those Regulations may be made by way of an electronic communication in accordance with the provisions set out in Schedule 9C to the Claims and Payments Regulations.

Article 7 adds a new regulation 6B to the Social Security (Guardian’s Allowances) Regulations 1975 to provide that any election given under regulation 6A of those Regulations may be made by way of an electronic communication in accordance with the provisions set out in Schedule 9C to the Claims and Payments Regulations.

Article 8 adds a new paragraph (1A) to regulation 5 of the Social Security (Notification of Change of Circumstances) Regulations 2001 to provide that where a change of circumstances is notified in respect of child benefit for the purposes of sections 111A(1A) to (1G) and 112(1A) to (1F) of the Social Security Administration Act 1992, by an electronic communication, the provisions set out in Schedule 9C to the Claims and Payments Regulations apply to that notification.

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Draft Legislation: *This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Social Security (Electronic Communications) (Child Benefit) Order 2002 No. 1789*

This Order does not impose a charge on business.