
STATUTORY INSTRUMENTS

2005 No. 343

SOCIAL SECURITY

**The Child Benefit and Guardian's Allowance
(Miscellaneous Amendments) Regulations 2005**

Made - - - - *17th February 2005*
Laid before Parliament *18th February 2005*
Coming into force - - *18th March 2005*

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 5(1)(g), (m), and (r) and 13(1C) of the Social Security Administration Act 1992⁽¹⁾ and sections 5(1)(g), (n) and (s) and 11(1C) of the Social Security Administration (Northern Ireland) Act 1992⁽²⁾, sections 9(1)(a), (4), 10(3) and (6), and 12(6) of the Social Security Act 1998⁽³⁾, and Articles 10(1) and (4), 11(3) and (6), and 13(6) of the Social Security (Northern Ireland) Order 1998⁽⁴⁾ and, in each case, now exercisable by them⁽⁵⁾, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2005 and shall come into force on 18th March 2005.

Amendment of the Child Benefit and Guardian's Allowance (Decisions and Appeals) Regulations 2003

2.—(1) The Child Benefit and Guardian's Allowance (Decisions and Appeals) Regulations 2003⁽⁶⁾ are amended as follows.

3. In regulation 5(3) (revision of decisions within a prescribed period or on an application), for “was made”, substitute—

“had effect (or, in the case of an advance award under regulation 12 of the Child Benefit and Guardian's Allowance (Administration) Regulations 2003(advance claims and awards)⁽⁷⁾, was made)”.

(1) 1992 c. 5.

(2) 1992 c. 8.

(3) 1998 c. 14.

(4) S.I. 1998/1506.

(5) See section 50 of the Tax Credits Act 2002 (c. 21).

(6) S.I. 2003/916: there are amendments which are not relevant for present purposes.

(7) S.I. 2003/492.

4. In regulation 13(2)(a)(i) (cases and circumstances in which superseding decisions may be made), for “had effect”, substitute—

“had effect (or, in the case of an advance award under regulation 12 of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003 (advance claims and awards), was made)”.

5.—(1) Amend regulation 16 (date as from which superseding decisions take effect) as follows.

(2) In paragraph (2)(a) after “had effect” insert “(or, in the case of an advance award, was made)”.

(3) After paragraph (9) insert—

“(9A) Where—

- (a) a Commissioner or the court determines an appeal as mentioned in section 27(1)(a) or Article 27(1)(a) (“the relevant determination”) and the Board make a decision of the kind specified in section 27(1)(b)(8) or Article 27(1)(b)(9);
- (b) there is an appeal against the relevant determination;
- (c) after the Board’s decision, payment is suspended in accordance with regulation 18(1) and (3)(b), and
- (d) on appeal the court reverses the relevant determination in whole or in part,

a consequential decision by the Board under section 10 or Article 11 which supersedes the earlier decision referred to in sub-paragraph (a) above shall take effect from the date on which that earlier decision took effect.

In this paragraph “the court” has the meaning given in section 27 or Article 27 (as the case requires).”.

6. In regulation 26(2) (notice of decision against which appeal lies), for “must” to the end of the paragraph, substitute “shall provide the statement within 14 days of receipt of the request or as soon as practicable afterwards”.

Amendment of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003

7. The Child Benefit and Guardian’s Allowance (Administration) Regulations 2003(10) are amended as follows.

8.—(1) Amend regulation 22 (interim payments) as follows.

(2) For paragraph (1) substitute—

“(1) If the condition in any sub-paragraph of paragraph (1A) is satisfied, the Board may make a payment on account (“an interim payment”) of any child benefit or guardian’s allowance to which it appears to them that a person—

- (a) is or may be entitled,
- (b) where sub-paragraph (a) of paragraph (1A) applies, would or might be entitled, were a claim made,
- (c) where sub-paragraph (b) of that paragraph applies, would or might be entitled, were the national insurance number condition satisfied.

(1A) The conditions are that—

(8) There are amendments to section 27 which are not relevant for present purposes.

(9) There are amendments to Article 27 which are not relevant for present purposes.

(10) S.I. 2003/492.

- (a) a claim for benefit or allowance has not been made in accordance with these Regulations and it is impracticable for such a claim to be made immediately;
- (b) a claim has been made in accordance with these Regulations, the conditions of entitlement are satisfied other than the national insurance number condition, and it is impracticable for that condition to be satisfied immediately;
- (c) a claim for the benefit or allowance has been so made but it is impracticable for it, or an application or appeal relating to it, to be determined immediately;
- (d) an award of the benefit or allowance has been made but it is impracticable for the person entitled to it to be paid immediately other than by means of an interim payment.”.

(3) In paragraph (2) omit “unless the Board are of the opinion that there is entitlement to benefit.”.

(4) At the end add—

“(4) In this regulation “the national insurance number condition” means the condition imposed—

- (a) in Great Britain, by section 13(1A) and (1B), of the Administration Act(11) (requirement for claim to be accompanied by details of national insurance number);
- (b) in Northern Ireland, by section 11(1A) and (1B)(12) of the Administration (NI) Act.”.

9.—(1) Amend regulation 26(2) (extinguishment of right to payment if not obtained within the prescribed period) as follows

(2) After sub-paragraph (b) insert—

“(bb) in relation to any such sum which the person entitled to it and the Board have arranged to be paid by way of direct credit transfer into a bank or other account, on the due date for payment of such a sum;”.

(3) In sub-paragraph (c) for “neither sub-paragraph (a) nor (b) applies” substitute “none of the preceding sub-paragraphs applies”.

10. In regulation 27(1)(b) (persons who may act on behalf of those unable to act), for “tutor, curator or other guardian appointed in terms of law”, substitute “guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(13)”.

11.—(1) Amend regulation 29 (persons who may proceed with a claim made by a person who has died) as follows.

(2) In paragraph (1) after “proceed with a claim for child benefit or guardian’s allowance” add—

“, and to deal with any issue related to the revision of, supersession of, or appeal in connection with a decision on, that claim”.

(11) Section 13 was amended, and subsections (1A) and (1B) inserted, by section 69 of the Welfare Reform and Pensions Act 1999 c. 30.

(12) Section 11 was amended, and subsections (1A) and (1B) inserted, by Article 66 of the Welfare Reform and Pensions (Northern Ireland) Order 1999(S.I. 1999/3147 (N.I. 11)).

(13) 2000 asp4.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

17th February 2005

Ann Chant
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Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 1 provides for citation and commencement.

Regulation 2 introduces the amendments to the Appeals Regulations.

Regulations 3, 4 and 5 amend regulations 5, 13 and 16 respectively of the Appeals Regulations so that an advance award of child benefit or guardian's allowance can be superseded (if appropriate) where there is a change of circumstances between the date when the award was made, and when it is due to take effect.

Regulation 5 also specifies the date from which a decision by the Board shall take effect in circumstances where there has been an appeal against that decision, the result of which is to reverse the Board's decision in whole or in part.

Regulation 6 amends regulation 26 of the Appeals Regulations to provide that the Board shall provide a written statement of reasons within 14 days of receipt of the request or as soon as practicable thereafter.

Regulation 7 introduces the amendments to the Administration Regulations.

Regulation 8 amends regulation 22 of those Regulations to provide for an interim payment where it is impractical to satisfy national insurance number requirements.

Regulation 9 makes further provision in regulation 26 of those Regulations for the extinguishment of the right to payment of benefit.

Regulation 10 amends regulation 27 of the Administration Regulations as a result of the introduction of new legislation in Scotland.

Regulation 11 makes further provision in respect of the handling of a claim where the claimant has died.

A regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.