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STATUTORY INSTRUMENTS

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**2003 No. 492**

**The Child Benefit and Guardian's Allowance  
(Administration) Regulations 2003**

**PART 1**

**GENERAL**

**Citation, commencement and effect**

**1.**—(1) These Regulations may be cited as the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 and shall come into force on 7th April 2003 immediately after the commencement of section 50 of the Tax Credits Act 2002<sup>(1)</sup> for the purposes of entitlement to payment of child benefit and guardian's allowance.

(2) These Regulations have effect only in relation to—

- (a) child benefit and guardian's allowance under the Contributions and Benefits Act; and
- (b) child benefit and guardian's allowance under the Contributions and Benefits (NI) Act.

**Commencement Information**

**II** [Reg. 1](#) in force at 7.4.2003, see [reg. 1](#)

**Interpretation**

**2.** In these Regulations—

“the adjudicating authority” means—

- (a) the Board;
- (b) an appeal tribunal constituted under <sup>F1</sup>... Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998<sup>(2)</sup>; or
- (c) a Commissioner <sup>F2</sup>... to whom an appeal lies under Article 15 of that Order<sup>(3)</sup>;
- (d) [<sup>F3</sup>the First-tier Tribunal or the Upper Tribunal;]

“the Administration Act” means the Social Security Administration Act 1992<sup>(4)</sup>;

“the Administration (NI) Act” means the Social Security Administration (Northern Ireland) Act 1992<sup>(5)</sup>;

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(1) 2002 c. 21.

(2) S.I.1998/1506 (N.I. 10).

(3) Article 15 was amended by Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

(4) 1992 c. 5.

(5) 1992 c. 8.

[<sup>F4</sup>“appropriate office” means—

- (a) Waterview Park, Washington, Tyne and Wear; or
- (b) any other office specified in writing by the Board.]

“the approved form” has the meaning given by regulation 5(1)(a);

“the Board” means the [<sup>F5</sup>Commissioners for Her Majesty’s Revenue and Customs];

[<sup>F6</sup>“civil partnership” means two people <sup>F7</sup>... who are civil partners of each other and are neither—

- (a) separated under a court order, nor
- (b) separated in circumstances in which the separation is likely to be permanent;]

[<sup>F8</sup>“cohabiting couple” means two people who are not a married couple or in a civil partnership but are living together as if they were married or civil partners;]

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(6);

“the Contributions and Benefits (NI) Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(7);

“interim payment” has the meaning given by regulation 22(1);

“married couple” means a man and a woman who are married to each other and are neither—

- (a) separated under a court order, nor
- (b) separated in circumstances in which the separation is likely to be permanent;

[<sup>F9</sup>“partner” means a member of a married couple, [<sup>F10</sup>a civil partnership or a cohabiting couple]];

“relevant authority” means—

- (a) in relation to child benefit or guardian’s allowance under the Contributions and Benefits Act, the Secretary of State or a person providing services to the Secretary of State;
- (b) in relation to child benefit or guardian’s allowance under the Contributions and Benefits (NI) Act, the Department for Social Development in Northern Ireland or a person providing services to that Department;

<sup>F11</sup> ...

“writing” includes writing produced by electronic communications used in accordance with Schedule 2.

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### Textual Amendments

- F1** Words in [reg. 2](#) omitted (3.11.2008) by virtue of [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, [Sch. 1 para. 211\(a\)](#)
- F2** Words in [reg. 2](#) omitted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, [Sch. 1 para. 211\(b\)](#)
- F3** Words in [reg. 2](#) inserted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, [Sch. 1 para. 211\(c\)](#)
- F4** Words in [reg. 2](#) substituted (1.1.2010) by [The Child Benefit and Guardian’s Allowance \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/3268\)](#), regs. 1, [3\(2\)](#)

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(6) 1992 c. 4.

(7) 1992 c. 7.

- F5** Words in [reg. 2](#) substituted (10.4.2006) by The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/203), regs. 1, **2(2)(b)**
- F6** Words in [reg. 2](#) inserted (5.12.2005) by The Civil Partnership Act 2004 (Tax Credits, etc.) (Consequential Amendments) Order 2005 (S.I. 2005/2919), arts. 1, **12(2)(a)**
- F7** Words in [reg. 2](#) omitted (2.12.2019) by virtue of The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 64(2)(a)**
- F8** Words in [reg. 2](#) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 64(2)(b)**
- F9** Words in [reg. 2](#) substituted (5.12.2005) by The Civil Partnership Act 2004 (Tax Credits, etc.) (Consequential Amendments) Order 2005 (S.I. 2005/2919), arts. 1, **12(2)(b)**
- F10** Words in [reg. 2](#) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 64(2)(c)**
- F11** Words in [reg. 2](#) omitted (2.12.2019) by virtue of The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 64(2)(d)**

#### Commencement Information

- I2** [Reg. 2](#) in force at 7.4.2003, see [reg. 1](#)

### Use of electronic communications

3. Schedule 2 (the use of electronic communications) has effect.

#### Commencement Information

- I3** [Reg. 3](#) in force at 7.4.2003, see [reg. 1](#)

### Notification for purposes of sections 111A and 112 of the Administration Act and sections 105A and 106 of the Administration (NI) Act

4.—(1) This regulation prescribes the person to whom, and manner in which, a change of circumstances must be notified for the purposes of sections 111A(1A) to (1G) and 112(1A) to (1F) of the Administration Act(8) and sections 105A(1A) to (1G) and 106(1A) to (1F) of the Administration (NI) Act (offences relating to failure to notify a change of circumstances)(9).

(2) Notice of the change of circumstances must be given to the Board, or, where relevant, a relevant authority, in writing (except where they determine or it determines, in any particular case, that they or it will accept a notice other than in writing) by delivering or sending it to an appropriate office.

#### Commencement Information

- I4** [Reg. 4](#) in force at 7.4.2003, see [reg. 1](#)

(8) Section 111A was inserted by section 13 of the Social Security Administration Fraud Act 1997 (c. 47) and subsections (1A) to (1G) of that section, and subsections (1A) to (1F) of section 112, were substituted by section 16 of the Social Security Fraud Act 2001 (c. 11).

(9) Section 105A was inserted by Article 12 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11) and subsections (1A) to (1G) of that section, and subsections (1A) to (1F) of section 106, were substituted by section 15 of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17).

## PART 2

### CLAIMS AND AWARDS

#### Making a claim

5.—<sup>[F12]</sup>(1) A claim, or an extension of a claim, for child benefit or guardian's allowance must be made—

- (a) to the Board, in writing and completed on a form approved or authorised by the Board for the purpose of the claim; or
- (b) in such other manner as the Board may decide having regard to all the circumstances.]

(2) The person making the claim must deliver or send it to an appropriate office.

(3) Subject to regulation 10, the claim is made on the date on which it is received by the appropriate office.

#### Textual Amendments

**F12** Reg. 5(1) substituted (1.1.2010) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/3268\)](#), regs. 1, **3(3)**

#### Commencement Information

**I5** Reg. 5 in force at 7.4.2003, see [reg. 1](#)

#### Time within which claims to be made

6.—<sup>[F13]</sup>(1) The time within which a claim for child benefit or guardian's allowance is to be made is 3 months beginning with any day on which, apart from satisfying the conditions for making the claim, the person making the claim is entitled to the benefit or allowance.

<sup>[F14]</sup>(2) Paragraph (1) shall not apply where—

- (a) a person has been awarded child benefit or guardian's allowance while he was present and residing in Great Britain, or Northern Ireland;
- (b) at a time when payment of the award has not been suspended or terminated (under regulations 18 to 20 of the [Child Benefit and Guardian's Allowance \(Decisions and Appeals\) Regulations 2003](#) or otherwise), he takes up residence in Northern Ireland, or Great Britain as the case may be (“the new country of residence”); and
- (c) a new claim for that benefit or allowance is made in the new country of residence, for a period commencing on the later of—

- (i) the date of the change of residence referred to in sub-paragraph (b), or
- (ii) the date on which, apart from satisfying the conditions for making the claim, the person became entitled to the benefit or allowance under the legislation of the new country of residence.]

<sup>[F15]</sup>(d) a person who has claimed asylum and, on or after 6th April 2004, makes a claim for that benefit or allowances and satisfies the following conditions—

- (i) the person is notified that he has been recorded as a refugee by the Secretary of State; and
- (ii) he claims that benefit or allowance within 3 months of receiving that notification.]

[<sup>F16</sup>(e) a person who has been granted section 67 leave makes a claim for that benefit or allowance within three months of receiving notification from the Secretary of State of the grant of that leave.]

[<sup>F17</sup>(3) In a case falling within paragraph (2)(d) [<sup>F18</sup>or (2)(e)] the person making the claim shall be treated as having made it on the date when he submitted his claim for asylum.]

[<sup>F19</sup>(4) In this regulation “section 67 leave” means leave to remain in the United Kingdom granted by the Secretary of State to a person who has been relocated to the United Kingdom pursuant to arrangements made by the Secretary of State under section 67 of the Immigration Act 2016.]

**Textual Amendments**

- F13** Reg. 6 renumbered as reg. 6(1) (3.9.2003) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment No. 3\) Regulations 2003 \(S.I. 2003/2107\)](#), regs. 1, **3(1)**
- F14** Reg. 6(2) added (3.9.2003) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment No. 3\) Regulations 2003 \(S.I. 2003/2107\)](#), regs. 1, **3(2)**
- F15** Reg. 6(2)(d) added (6.4.2004) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/761\)](#), regs. 1, **2(2)**
- F16** Reg. 6(2)(e) inserted (20.7.2018) by [The Child Benefit, Tax Credits and Childcare Payments \(Section 67 Immigration Act 2016 Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/788\)](#), regs. 1, **3(2)(a)**
- F17** Reg. 6(3) added (6.4.2004) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/761\)](#), regs. 1, **2(3)**
- F18** Words in reg. 6(3) inserted (20.7.2018) by [The Child Benefit, Tax Credits and Childcare Payments \(Section 67 Immigration Act 2016 Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/788\)](#), regs. 1, **3(2)(b)**
- F19** Reg. 6(4) inserted (20.7.2018) by [The Child Benefit, Tax Credits and Childcare Payments \(Section 67 Immigration Act 2016 Leave\) \(Amendment\) Regulations 2018 \(S.I. 2018/788\)](#), regs. 1, **3(2)(c)**

**Commencement Information**

- I6** [Reg. 6](#) in force at 7.4.2003, see [reg. 1](#)

**Evidence and information**

7.—[<sup>F20</sup>(1) The Board may require the person making the claim for child benefit or guardian's allowance to supply such information or evidence in connection with the claim, or any questions arising out of it, as the Board considers reasonable.]

- (2) A person required under paragraph (1) to furnish <sup>F21</sup>... information and evidence must do so—
  - (a) within one month of being required by the Board to do so; or
  - (b) within such longer period as the Board may consider reasonable.

<sup>F22</sup>(3) .....

**Textual Amendments**

- F20** [Reg. 7\(1\)](#) substituted (15.3.2023) by [The Tax Credits and Child Benefit \(Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/179\)](#), regs. 1, **4(2)(a)**
- F21** Words in [reg. 7\(2\)](#) omitted (15.3.2023) by virtue of [The Tax Credits and Child Benefit \(Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/179\)](#), regs. 1, **4(2)(b)**
- F22** [Reg. 7\(3\)](#) omitted (15.3.2023) by virtue of [The Tax Credits and Child Benefit \(Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/179\)](#), regs. 1, **4(2)(c)**

#### Commencement Information

**I7** [Reg. 7](#) in force at 7.4.2003, see [reg. 1](#)

#### Amending claims

**8.—(1)** A person who has made a claim for child benefit or guardian's allowance may amend it by giving to the Board or a relevant authority notice in writing in accordance with paragraph (2).

(2) A notice under paragraph (1) must be delivered or sent to an appropriate office at any time before a determination has been made on the claim.

(3) The Board may treat a claim amended in accordance with this regulation as if it had been so amended when first made.

#### Commencement Information

**I8** [Reg. 8](#) in force at 7.4.2003, see [reg. 1](#)

#### Withdrawing claims

**9.—**<sup>F23</sup>(1) A person who has made a claim for child benefit or guardian's allowance may withdraw it by giving notice—

- (a) in writing to the Board,
- (b) by telephone to the Board, or
- (c) in such other manner as the Board may accept as sufficient in the circumstances of the particular case.]

(2) A notice of withdrawal given in accordance with paragraph <sup>F24</sup>(1)(a)] has effect when it is received by an appropriate office.

#### Textual Amendments

**F23** [Reg. 9\(1\)](#) substituted (21.3.2019) by [The Tax Credits, Child Benefit and Childcare Payments \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/364\)](#), regs. 1, **10(2)(a)**

**F24** Word in [reg. 9\(2\)](#) substituted (21.3.2019) by [The Tax Credits, Child Benefit and Childcare Payments \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/364\)](#), regs. 1, **10(2)(b)**

#### Commencement Information

**I9** [Reg. 9](#) in force at 7.4.2003, see [reg. 1](#)

#### Defective applications

**10.—(1)** If an appropriate office receives a defective application, the Board or the relevant authority may refer it back to the person making it or supply him with the approved form for completion.

(2) Where—

- (a) in accordance with paragraph (1), a defective application has been referred back, or an approved form supplied, to a person; and
- (b) a claim is received by an appropriate office—

- (i) within the period of one month beginning with the date on which the defective application was referred back or the approved form was supplied; or
  - (ii) within such longer period as the Board may consider reasonable,
- the claim shall be treated as having been made on the date on which the appropriate office received the defective application.
- (3) “Defective application” means an intended claim which—
- (a) is made on an approved form which has not been completed in accordance with the instructions on it; or
  - (b) is in writing but is not made on the approved form.

**Commencement Information**

**I10** Reg. 10 in force at 7.4.2003, see [reg. 1](#)

**Claims for child benefit treated as claims for guardian’s allowance and vice versa**

**11.**—(1) Where it appears to the Board that a person who has made a claim for child benefit in respect of a child [<sup>F25</sup>or qualifying young person] may be entitled to guardian’s allowance in respect of the same child [<sup>F26</sup>or qualifying young person], the Board may treat, either in the alternative or in addition, the claim as being a claim for guardian’s allowance by that person.

(2) Where it appears to the Board that a person who has made a claim for guardian’s allowance in respect of a child [<sup>F25</sup>or qualifying young person] may be entitled to child benefit in respect of the same child [<sup>F26</sup>or qualifying young person], the Board may treat, either in the alternative or in addition, the claim as being a claim for child benefit by that person.

**Textual Amendments**

**F25** Words in [reg. 11\(1\)\(2\)](#) inserted (10.4.2006) by [The Child Benefit and Guardian’s Allowance \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/203\)](#), [regs. 1, 2\(4\)\(a\)](#)

**F26** Words in [reg. 11\(1\)\(2\)](#) inserted (10.4.2006) by [The Child Benefit and Guardian’s Allowance \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/203\)](#), [regs. 1, 2\(4\)\(b\)](#)

**Commencement Information**

**I11** Reg. 11 in force at 7.4.2003, see [reg. 1](#)

**Advance claims and awards**

**12.**—(1) This regulation applies where a person who has made a claim for child benefit or guardian’s allowance does not satisfy the requirements for entitlement on the date on which the claim is made.

(2) If the Board are of the opinion that, unless there is a change of circumstances, the person will satisfy those requirements for a period beginning with a date (“the relevant date”) not more than 3 months after the date on which the claim is made, they—

- (a) may treat the claim as if made for a period beginning with the relevant date; and
- (b) may award the benefit or allowance accordingly, subject to the condition that the person satisfies the requirements for entitlement when the benefit or allowance becomes payable under the award.

(3) If the requirements for entitlement are found not to have been satisfied on the relevant date, a decision under paragraph (2)(b) to award benefit may be revised under—

- (a) in relation to child benefit and guardian's allowance under the Contributions and Benefits Act, section 9 of the Social Security Act 1998<sup>(10)</sup>;
- (b) in relation to child benefit and guardian's allowance under the Contributions and Benefits (NI) Act, Article 10 the Social Security (Northern Ireland) Order 1998<sup>(11)</sup>.

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**Commencement Information**

**I12** Reg. 12 in force at 7.4.2003, see [reg. 1](#)

**Date of entitlement under an award for the purposes of payability**

**13.**—(1) This regulation applies where child benefit or guardian's allowance is awarded for a period of a week or weeks and the earliest date on which entitlement would commence is not a Monday.

(2) For the purposes of determining the day from which the benefit or allowance is to become payable, entitlement shall be treated as beginning on the Monday next following the earliest date referred to in paragraph (1).

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**Commencement Information**

**I13** Reg. 13 in force at 7.4.2003, see [reg. 1](#)

**Effective date of change of rate**

**14.** Where a change in the rate of child benefit or guardian's allowance would take effect, but for this regulation, on a day which would not be the appropriate pay day for the benefit or allowance, the change shall take effect from the appropriate pay day next following.

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**Commencement Information**

**I14** Reg. 14 in force at 7.4.2003, see [reg. 1](#)

**Duration of claims and awards**

**15.**—(1) Subject to paragraphs (2) and (3), a claim for child benefit or guardian's allowance shall be treated as made for an indefinite period and any award shall be made for an indefinite period.

(2) If it would be inappropriate to treat a claim as made and to make an award for an indefinite period (for example, where a relevant change of circumstances is reasonably to be expected in the near future), the claim shall be treated as made for a definite period which is appropriate in the circumstances and any award shall be made for that period.

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<sup>(10)</sup> Section 9 is contained in Chapter 2 of Part 1 of the Social Security Act 1998 (social security decisions and appeals: Great Britain) and the functions of the Secretary of State under that Chapter, so far as relating to child benefit and guardian's allowance, are transferred to the Commissioners of Inland Revenue by section 50(1) and (2)(e) of the Tax Credits Act 2002.

<sup>(11)</sup> Article 10 is contained in Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (social security decisions and appeals: Northern Ireland) and the functions of the Department for Social Development in Northern Ireland under that Chapter, so far as relating to child benefit and guardian's allowance, are transferred to the Commissioners of Inland Revenue by section 50(1) and (2)(f) of the Tax Credits Act 2002.



(3) In any case where benefit or allowance is awarded in respect of days subsequent to the date on which the claim was made, the award shall be subject to the condition that the person by whom the claim was made satisfies the requirements for entitlement.

**Commencement Information**

**I15** Reg. 15 in force at 7.4.2003, see **reg. 1**

**PART 3**  
**PAYMENTS**

**[<sup>F27</sup>Payment by direct credit transfer**

**16.—(1)** Child benefit or guardian's allowance shall be paid in accordance with paragraphs (2) to (6) unless paid in accordance with regulation 17.

(2) Payment of child benefit or guardian's allowance <sup>F28</sup>... shall be made by direct credit transfer into a bank or other account that [<sup>F29</sup>the person entitled to the benefit or allowance has] notified to the Board for the purpose of payment of—

- (a) a benefit described in section 5(2) of the Social Security Administration Act 1992;
- (b) a benefit described in section 5(2) of the Social Security Administration (Northern Ireland Act) 1992; or
- (c) a tax credit described in section 1 of the Tax Credits Act 2002,

to which that person is entitled.

(3) If a person entitled to child benefit is also entitled to guardian's allowance, the allowance shall be paid into the same bank or other account as that into which the child benefit is paid under this regulation.

<sup>F30</sup>(4) .....

(5) Subject to paragraph (6), the benefit or allowance shall be paid within seven days of the last day of each successive period of entitlement.

(6) The Board may make a particular payment by direct credit transfer otherwise than is provided by paragraph (5) if it appears to them appropriate to do so for the purpose of—

- (a) paying any arrears of benefit or allowance, or
- (b) making a payment in respect of a terminal period of an award for any similar purpose.]

**Textual Amendments**

- F27** Reg. 16 substituted (1.11.2010) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2010 \(S.I. 2010/2459\)](#), regs. 1, **2(a)**
- F28** Words in reg. 16(2) omitted (21.7.2016) by virtue of [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/681\)](#), regs. 1, **2(2)(a)**
- F29** Words in reg. 16(2) substituted (21.7.2016) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/681\)](#), regs. 1, **2(2)(b)**
- F30** Reg. 16(4) omitted (21.7.2016) by virtue of [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/681\)](#), regs. 1, **2(3)**

**Commencement Information**

**I16** Reg. 16 in force at 7.4.2003, see [reg. 1](#)

**[<sup>F31</sup>Payment by other means**

**17.**—(1) Child benefit or guardian's allowance may be paid by a means other than by direct credit transfer where it appears to the Board to be appropriate to do so in the circumstances of a particular case.

(2) If a person entitled to child benefit is also entitled to guardian's allowance, the allowance shall be paid in the same manner as that in which the child benefit is paid under this regulation.

(3) An instrument of payment issued by the Board pursuant to this regulation shall—

- (a) remain the property of the Board, and
- (b) be returned immediately to the Board (or such person as the Board may direct) if the person who has the instrument—
  - (i) is required to do so by the Board; or
  - (ii) ceases to be entitled to any part of the benefit or allowance to which the instrument relates.]

**Textual Amendments**

**F31** Reg. 17 substituted (1.11.2010) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2010 \(S.I. 2010/2459\)](#), regs. 1, **2(a)**

**Commencement Information**

**I17** Reg. 17 in force at 7.4.2003, see [reg. 1](#)

**Time of payment**

**18.**—(1) Subject to paragraphs (2) to (4), child benefit and guardian's allowance shall be paid in accordance with an award as soon as reasonably practicable after the award has been made.

(2) Child benefit shall be paid—

- (a) if a person entitled to it makes an election under regulation 19 or 20, weekly beginning with the first convenient date after the election has been made;
- (b) in any other case, in the last week of each successive period of four weeks of the period of entitlement.

(3) Where benefit is paid at four-weekly intervals in accordance with paragraph (2)(b), the Board must arrange for it to be paid weekly if they are satisfied that payment at intervals of four weeks is causing hardship.

(4) If a person who has made a claim for child benefit is also entitled to guardian's allowance, the allowance shall be paid at the same intervals as the child benefit.

(5) The Board must take steps to notify persons to whom child benefit or guardian's allowance is payable of the arrangements they have made for payment in so far as those arrangements affect those persons.

### Commencement Information

**I18** Reg. 18 in force at 7.4.2003, see **reg. 1**

### Persons who may elect to have child benefit paid weekly

**19.**—(1) A person may make an election under this regulation to have child benefit paid weekly if—

- (a) he is a lone parent; or
- (b) he or his partner is receiving—
  - (i) income support; <sup>F32</sup>...
  - (ii) an income-based allowance payable under Part 1 of the Jobseekers Act 1995(12) or Part 2 of the Jobseekers (Northern Ireland) Order 1995(13)<sup>F33</sup>;
  - (iii) an income-related employment and support allowance within the meaning in Part 1 of the Welfare Reform Act 2007 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007; <sup>F34</sup>...
  - (iv) a state pension credit within the meaning in the State Pension Credit Act 2002 or the State Pension Credit Act (Northern Ireland) 2002<sup>F35</sup>; or
  - (v) universal credit under Part 1 of the Welfare Reform Act 2012<sup>F36</sup> or Part 2 of the Welfare Reform (Northern Ireland) Order 2015.]

(2) “Lone parent” means a person who has no partner and is entitled to child benefit in respect of a child <sup>F37</sup> or qualifying young person] for whom he is responsible.

- (3) A person making an election under this regulation—
  - (a) must furnish, in such manner and at such times as the Board may determine, such certificates, documents, other information or facts as the Board may require which may affect his right to receive payment of the benefit weekly; and
  - (b) as soon as reasonably practicable after any change of circumstances which he might reasonably be expected to know might affect that right, must notify the Board in writing of that change in accordance with paragraph (4).

(4) A notification under paragraph (3)(b) must be delivered or sent to an appropriate office as regards the Board.

### Textual Amendments

**F32** Word in reg. 19(1)(b) omitted (1.1.2010) by virtue of The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/3268), regs. 1, **3(4)(a)**

**F33** Reg. 19(1)(b)(iii)(iv) and semi-colon added (1.1.2010) by The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/3268), regs. 1, **3(4)(b)**

**F34** Word in reg. 19(1)(b)(iii) omitted (29.4.2013) by virtue of The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **81**

**F35** Reg. 19(1)(b)(v) and word inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **81**

(12) 1995 c. 18.

(13) S.I. 1995/2705 (N.I. 15).

- F36** Words in [reg. 19\(1\)\(b\)\(v\)](#) inserted (N.I.) (coming into force in accordance with [reg. 1\(1\)](#) of the amending Rule) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), [regs. 1\(1\), 57](#)
- F37** Words in [reg. 19\(2\)](#) inserted (10.4.2006) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/203\)](#), [regs. 1, 2\(5\)](#)

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**Commencement Information**

- I19** [Reg. 19](#) in force at 7.4.2003, see [reg. 1](#)

**Elections for weekly payment by persons to whom child benefit was payable for a period beginning before and ending after 15th March 1982**

**20.**—(1) This regulation applies to a person to whom child benefit is payable for an uninterrupted period beginning before and ending after 15th March 1982.

(2) A person to whom this regulation applies may make an election to have the benefit paid weekly after 15th March 1982 if—

- (a) he makes it before the end of the period of 26 weeks beginning with the day on which benefit was payable for the first four weeks in respect of which arrangements for four-weekly payment were made;
- (b) in the case of benefit under the Contributions and Benefits Act, he was absent from Great Britain on 15th March 1982 for any of the reasons specified in paragraph (3) and he makes the election before the end of the period of 26 weeks beginning with the first week in respect of which benefit became payable to him in Great Britain on his return; or
- (c) in the case of benefit under the Contributions and Benefits (NI) Act, he was absent from Northern Ireland on 15th March 1982 for any of the reasons specified in paragraph (3) and he makes the election before the end of the period of 26 weeks beginning with the first week in respect of which benefit became payable to him in Northern Ireland on his return.

(3) The reasons specified in this paragraph are that the person—

- (a) was a serving member of the forces;
- (b) was the spouse of such a serving member; or
- (c) was living with such a serving member as husband or wife.

(4) “Serving member of the forces” means a person, other than one mentioned in Part 2 of Schedule 6 to the Social Security (Contributions) Regulations 2001(**14**), who, being over the age of 16 years, is a member of any establishment or organisation specified in Part 1 of that Schedule (being a member who gives full pay service) but does not include any such person while absent on desertion.

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**Commencement Information**

- I20** [Reg. 20](#) in force at 7.4.2003, see [reg. 1](#)

**Manner of making elections under regulations 19 and 20**

**21.**—(1) This regulation applies to elections under regulations 19 and 20.

(2) An election—

- (a) must be made by notice in writing to the Board; and
- (b) must be delivered or sent to an appropriate office as regards the Board.

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(14) S.I. 2001/1004.

- (3) An election is made on the date on which it is received by the appropriate office.
- (4) Where a person has made an election, child benefit is payable weekly so long as—
  - (a) he remains continually entitled to it; and
  - (b) in the case of an election under regulation 19, the conditions specified in paragraph (1)(a) or (b) of that regulation continue to be satisfied.
- (5) A person who has made an election may cancel it at any time by giving to the Board a notice in writing which must be sent or delivered to an appropriate office as regards the Board.
- (6) The Board must give effect to a notice given in accordance with paragraph (5) as soon as reasonably practicable after receiving it.

#### Commencement Information

**I21** Reg. 21 in force at 7.4.2003, see [reg. 1](#)

#### Interim payments

**22.**—<sup>F38</sup>(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—
- (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.]

(2) Paragraph (1) does not apply pending the determination of an appeal <sup>F39</sup>....

(3) On or before the making of an interim payment, the Board must give the person to whom payment is to be made notice in writing of his liability under regulations 41 and 42 to have it brought into account and to repay any overpayment.

<sup>F40</sup>(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 (requirement for claim to be accompanied by details of national insurance number);
- (b) in Northern Ireland, by section 11(1A) and (1B) of the Administration (NI) Act.]

### Textual Amendments

- F38** Reg. 22(1)(1A) substituted for reg. 22(1) (18.3.2005) by The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/343), regs. 1, **8(2)**
- F39** Words in reg. 22(2) omitted (18.3.2005) by virtue of The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/343), regs. 1, **8(3)**
- F40** Reg. 22(4) added (18.3.2005) by The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/343), regs. 1, **8(4)**

### Commencement Information

- I22** Reg. 22 in force at 7.4.2003, see **reg. 1**

### Information to be given and changes to be notified

**23.**—(1) This regulation applies to any person entitled to child benefit or guardian's allowance and any person by whom, or on whose behalf, payments of such benefit or allowance are receivable.

(2) A person to whom this regulation applies must furnish in such manner and at such times as the Board may determine such information or evidence as the Board may require for determining whether a decision on an award—

- (a) in relation to benefit or allowance under the Contributions and Benefits Act, should be revised under section 9 or superseded under section 10 of the Social Security Act 1998(**15**);
- (b) in relation to benefit or allowance under the Contributions and Benefits (NI) Act, should be revised under Article 10 or superseded under Article 11 of the Social Security (Northern Ireland) Order 1998(**16**).

(3) A person to whom this regulation applies must furnish in such manner and at such times as the Board may determine such information and evidence as the Board may require in connection with the payment of the benefit or allowance.

[<sup>F41</sup>(3A) Where a person is in receipt of a benefit or allowance by means other than a direct credit transfer, in accordance with regulation 17, that person must, if required, within such time as the Board may determine, provide details of a bank or other account to which payment can be made.]

(4) A person to whom this regulation applies must notify the Board or a relevant authority of any change of circumstances which he might reasonably be expected to know might affect—

- (a) the continuance of entitlement to the benefit or allowance; or
- (b) the payment of it,

as soon as reasonably practicable after the change occurs.

(5) A notification under paragraph (4)—

- (a) must be given by notice in writing or orally; and
- (b) must be sent, delivered or given to the appropriate office.

### Textual Amendments

- F41** Reg. 23(3A) inserted (9.6.2022) by The Tax Credits and Child Benefit (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/555), regs. 1, **3(2)**

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(15) Section 10 was amended by paragraph 23 of Schedule 7, and Part 1 of Schedule 10, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(16) Article 11 was amended by paragraph 17(a) of Schedule 6, and Schedule 9, to S.I. 1999/671.

**Commencement Information**

**I23** Reg. 23 in force at 7.4.2003, see **reg. 1**

**Fractional amounts of benefit or allowance**

**24.** Where the amount of any child benefit or guardian's allowance payable includes a fraction of a penny, that fraction—

- (a) if it is less than a half, shall be disregarded;
- (b) if it is a half or more, shall be treated as a whole penny.

**Commencement Information**

**I24** Reg. 24 in force at 7.4.2003, see **reg. 1**

**Payments to persons under the age of 18 years**

**25.** Where a sum of child benefit or guardian's allowance is paid to a person under the age of 18 years (whether on his own behalf or on behalf of another), either of the following is a sufficient discharge to the Board for the sum paid—

- (a) a direct credit transfer under [<sup>F42</sup>regulation 16] into the person's account;
- (b) the receipt by the person of a payment made by some other means.

**Textual Amendments**

**F42** Words in **reg. 25(a)** substituted (1.11.2010) by **The Child Benefit and Guardian's Allowance (Administration) (Amendment) Regulations 2010 (S.I. 2010/2459)**, **regs. 1, 2(b)**

**Commencement Information**

**I25** Reg. 25 in force at 7.4.2003, see **reg. 1**

**Extinguishment of right to payment if payment is not obtained within the prescribed period**

**26.**—[<sup>F43</sup>(1) A person's right to payment of any sum of child benefit or guardian's allowance shall be extinguished if payment of that sum has not been obtained within 12 months of the issue by the Board of a cheque or other instrument of payment to that person.]

- <sup>F44</sup>(2) .....
- <sup>F44</sup>(3) .....
- <sup>F44</sup>(4) .....
- <sup>F44</sup>(5) .....

(6) This regulation has effect in relation to a person authorised or appointed to act on behalf of a person entitled to child benefit or guardian's allowance in the same manner as it has effect in relation to such a person.

#### Textual Amendments

- F43** Reg. 26(1) substituted (1.1.2010) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/3268\)](#), regs. 1, **3(5)(a)**
- F44** Reg. 26(2)-(5) omitted (1.1.2010) by virtue of [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/3268\)](#), regs. 1, **3(5)(b)**

#### Commencement Information

- I26** [Reg. 26](#) in force at 7.4.2003, see [reg. 1](#)

## PART 4

### THIRD PARTIES

#### Persons who may act on behalf of those unable to act

**27.**—(1) Anything required by these regulations to be done by or to any person who is for the time being unable to act may be done by or to—

- (a) in England and Wales, a receiver appointed by the Court of Protection with power to claim, or, as the case may be, receive, the benefit or allowance on behalf of the person;
- (b) in Scotland, a [<sup>F45</sup>guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000] who is administering the estate of the person;
- (c) in Northern Ireland, a controller appointed by the High Court, with power to claim, or, as the case may be, receive, the benefit or allowance on behalf of the person; or
- (d) a person appointed under regulation 28(2) to act on behalf of the person.

(2) Where a sum of child benefit or guardian's allowance is paid to a receiver or other person mentioned in paragraph (1)(a), (b), (c) or (d), either of the following is a sufficient discharge to the Board for the sum paid—

- (a) a direct credit transfer under [<sup>F46</sup>regulation 16] into the person's account;
- (b) the receipt by the person of a payment made by some other means.

#### Textual Amendments

- F45** Words in [reg. 27\(1\)\(b\)](#) substituted (18.3.2005) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/343\)](#), regs. 1, **10**
- F46** Words in [reg. 27\(2\)\(a\)](#) substituted (1.11.2010) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2010 \(S.I. 2010/2459\)](#), regs. 1, **2(b)**

#### Commencement Information

- I27** [Reg. 27](#) in force at 7.4.2003, see [reg. 1](#)

#### Appointment of persons to act on behalf of those unable to act

**28.**—(1) This regulation applies where—

- (a) a person is for the time being unable to act;
- (b) the person is, or is alleged to be, entitled to child benefit or guardian's allowance (whether or not a claim for the benefit or allowance has been made by him or on his behalf); and



- (c) no receiver or other person mentioned in regulation 27(1)(a), (b) or (c) has been appointed in relation to the person.
- (2) The Board may appoint a person who—
  - (a) has applied in writing to them to act on behalf of the person who is unable to act, and
  - (b) if a natural person, is over the age of 18 years,to exercise, on behalf of the person who is unable to act, any right relating to child benefit or guardian's allowance to which that person may be entitled and to receive and deal on his behalf with any sums payable to him in respect of the benefit or allowance.
- (3) Where an appointment has been made under paragraph (2)—
  - (a) the Board may at any time revoke it; and
  - (b) the person appointed may resign from the appointment after having given one month's notice in writing to the Board of his intention to do so.
- (4) An appointment made under paragraph (2) shall terminate when the Board are notified that a receiver or other person mentioned in regulation 27(1)(a), (b) or (c) has been appointed.

**Commencement Information**

**I28** Reg. 28 in force at 7.4.2003, see [reg. 1](#)

**Persons who may proceed with a claim made by a person who has died**

- 29.**—(1) The Board may appoint such person as they think fit to proceed with a claim for child benefit or guardian's allowance [<sup>F47</sup>, and to deal with any issue related to the revision of, supersession of, or appeal in connection with a decision on, that claim] which has been made by a person who has died.
- (2) Subject to regulation 32(2), the Board may pay or distribute any sum payable under an award on a claim proceeded with under paragraph (1) to or among—
  - (a) persons over the age of 16 years claiming as personal representatives, legatees, next of kin or creditors of the person who has died; and
  - (b) if the person who has died was illegitimate, any other persons over that age.
- (3) "Next of kin" means—
  - (a) in England and Wales, and in Northern Ireland, the persons who would take beneficially on an intestacy;
  - (b) in Scotland, the persons entitled to the moveable estate of the deceased on intestacy.
- (4) Where a sum is paid under paragraph (2) to a person, either of the following is a sufficient discharge to the Board for the sum paid—
  - (a) a direct credit transfer under [<sup>F48</sup>regulation 16] into the person's account;
  - (b) the receipt by the person of a payment made by some other means.
- (5) If the Board consider that a sum or part of a sum which may be paid or distributed under paragraph (2) is needed for the benefit of a person under the age of 16 years, they may obtain a good discharge for that sum by paying it to a person over that age whom they are satisfied will apply the sum for the benefit of the person under that age.
- (6) Regulation 26 (extinguishment of right) applies to a payment or distribution made under paragraph (2).

### Textual Amendments

- F47** Words in [reg. 29\(1\)](#) added (18.3.2005) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/343\)](#), regs. 1, **11(2)**
- F48** Words in [reg. 29\(4\)\(a\)](#) substituted (1.11.2010) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2010 \(S.I. 2010/2459\)](#), regs. 1, **2(b)**

### Commencement Information

- I29** [Reg. 29](#) in force at 7.4.2003, see [reg. 1](#)

### Persons who may receive payments which a person who has died had not obtained

**30.**—(1) This regulation applies where a person who has died had not obtained at the date of his death a sum of child benefit or guardian's allowance which was payable to him.

(2) Subject to regulation 32(2), the Board may, unless the right to payment had already been extinguished at the date of death, pay or distribute the sum to or amongst the persons mentioned in regulation 29(2)(a) and (b).

(3) Regulation 26 (extinguishment of right) applies to a payment or distribution made under paragraph (2), except that, for the purposes of paragraph (1) of that regulation, the period of 12 months shall be calculated from the date on which the right to payment is treated as having arisen to the person to whom the payment or distribution is made (and not from the date on which that right is treated as having arisen in relation to the person who has died).

### Commencement Information

- I30** [Reg. 30](#) in force at 7.4.2003, see [reg. 1](#)

### Person who may make a claim on behalf of a person who has died

**31.**—(1) If the conditions specified in paragraph (2) are satisfied, a claim may be made in the name of a person who has died for any child benefit or guardian's allowance to which he would have been entitled if he had claimed it in accordance with these Regulations.

(2) Subject to paragraph (3), the following conditions are specified in this paragraph—

- (a) within 6 months of the date of death an application must have been made in writing to the Board for a person, whom the Board think fit to be appointed to make the claim, to be so appointed;
- (b) a person must have been appointed by the Board to make the claim; and
- (c) the person so appointed must have made the claim not more than 6 months after the appointment.

(3) Subject to paragraphs (4) and (5), if the Board certify that to do so would be consistent with the proper administration of the Contributions and Benefits Act, the period of 6 months mentioned in paragraph (2)(a) or (c) shall be extended by such period (not exceeding 6 months) as may be specified in the certificate.

(4) If a certificate given under paragraph (3) specifies a period by which the period of 6 months mentioned in paragraph (2)(a) shall be extended, the period of 6 months mentioned in paragraph (2)(c) shall be shortened by a period corresponding to the period so specified.

(5) No certificate shall be given under paragraph (3) which would enable a claim to be made more than 12 months after the date of death.

For the purposes of this paragraph, any period between the date on which the application for a person to be appointed to make the claim is made and the date on which that appointment is made shall be disregarded.

(6) A claim made in accordance with this regulation shall be treated for the purposes of these Regulations as if it had been made on the date of his death by the person who has died.

**Commencement Information**

I31 Reg. 31 in force at 7.4.2003, see reg. 1

**Regulations 29, 30 and 31: supplementary**

32.—(1) The Board may dispense with strict proof of the title of a person claiming in accordance with regulation 29, 30 or 31.

(2) Neither paragraph (2) of regulation 29 nor paragraph (2) of regulation 30 applies unless written application for payment of the sum under that paragraph is made to the Board within 12 months from the date of death or such longer period as the Board may allow.

**Commencement Information**

I32 Reg. 32 in force at 7.4.2003, see reg. 1

**Payment to one person on behalf of another**

33.—(1) Subject to paragraph (2), the Board may direct that child benefit or guardian's allowance shall be paid, wholly or in part, to another natural person on behalf of the person entitled to it.

(2) The Board may not make a direction under paragraph (1) unless they are satisfied that it is necessary for protecting the interests of—

- (a) the person entitled to the benefit or allowance; or
- (b) any child [<sup>F49</sup>or qualifying young person] in respect of whom the benefit or allowance is payable.

**Textual Amendments**

F49 Words in reg. 33(2)(b) substituted (10.4.2006) by The Child Benefit and Guardian's Allowance (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/203), regs. 1, 2(6)

**Commencement Information**

I33 Reg. 33 in force at 7.4.2003, see reg. 1

**Payment to partner as alternative payee**

34.—(1) Subject to paragraph (2), where a [<sup>F50</sup>person with a partner] is entitled to child benefit or guardian's allowance, the Board may make arrangements whereby that benefit or allowance, as well as being payable to the person entitled to it, may, in the alternative, be paid to that person's partner on behalf of that person.

(2) Paragraph (1) does not apply to guardian's allowance where a [<sup>F51</sup>woman] has elected that the allowance is not to be paid to her husband [<sup>F52</sup>or male civil partner] in accordance with regulation 10

of the Guardian's Allowance (General) Regulations 2003 (prescribed manner of making an election under section 77(9) of the Contributions and Benefits Act and section 77(9) of the Contributions and Benefits (NI) Act)(17).

#### Textual Amendments

- F50** Words in [reg. 34\(1\)](#) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), [reg. 1\(2\)](#), [Sch. 3 para. 64\(3\)\(a\)](#)
- F51** Word in [reg. 34\(2\)](#) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), [reg. 1\(2\)](#), [Sch. 3 para. 64\(3\)\(b\)\(i\)](#)
- F52** Words in [reg. 34\(2\)](#) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), [reg. 1\(2\)](#), [Sch. 3 para. 64\(3\)\(b\)\(ii\)](#)

#### Commencement Information

- I34** [Reg. 34](#) in force at 7.4.2003, see [reg. 1](#)

## PART 5

### OVERPAYMENTS AND RECOVERY

#### Recovery of overpayments by direct credit transfer

**35.**—(1) If the adjudicating authority determines that—

- (a) a payment of child benefit or guardian's allowance in excess of entitlement has been credited to a bank account or other account under an arrangement for direct credit transfer made in accordance with [<sup>F53</sup>regulation 16]; and
- (b) the conditions specified in paragraph (2) are satisfied,

the excess, or the specified part of it to which the certificate referred to in sub-paragraph (a) of that paragraph relates, shall be recoverable.

(2) The following conditions are specified in this paragraph—

- (a) the Board must have certified that the payment in excess of entitlement, or a specified part of it, is materially due to the arrangement for payments to be made by direct credit transfer; and
- (b) subject to paragraph (3), notice of the effect which this regulation would have, in the event of an overpayment, must have been given in writing to the person entitled to the benefit or allowance, or to a person acting in his behalf, [<sup>F54</sup>before the Board made the arrangement for the payment of child benefit or guardian's allowance into that account].

(3) In the case of an arrangement relating to child benefit which was agreed to before 6th April 1987, the condition specified in paragraph (2)(b) need not be satisfied in any case where the application for the benefit to be paid by direct credit transfer contained a statement, or was accompanied by a written statement made by the applicant, which complied with the provisions specified in paragraph (4).

(4) The provisions specified in this paragraph are—

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(17) S.I. 2003/495.

- (a) in relation to child benefit under the Contributions and Benefits Act, regulation 7(2)(b) and (6) of the Child Benefit (Claims and Payments) Regulations 1984(18);
- (b) in relation to child benefit under the Contributions and Benefits (NI) Act, regulation 7(2)(b) and (6) of the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985(19).

#### Textual Amendments

- F53** Words in [reg. 35\(1\)\(a\)](#) substituted (1.11.2010) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2010 \(S.I. 2010/2459\)](#), regs. 1, **2(b)**
- F54** Words in [reg. 35\(2\)\(b\)](#) substituted (1.11.2010) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2010 \(S.I. 2010/2459\)](#), regs. 1, **2(c)**

#### Commencement Information

- I35** [Reg. 35](#) in force at 7.4.2003, see [reg. 1](#)

#### Circumstances in which determination need not be reversed, varied, revised or superseded

**36.—(1)** This regulation applies where, whether fraudulently or otherwise, a person has misrepresented, or failed to disclose, material facts which do not provide a basis for the determination in pursuance of which an amount of child benefit or guardian's allowance was paid—

- (a) in relation to benefit or allowance under the Contributions and Benefits Act, to be revised under section 9 or superseded under section 10 of the Social Security Act 1998;
  - (b) in relation to benefit or allowance under the Contributions and Benefits (NI) Act, to be revised under Article 10 or superseded under Article 11 of the Social Security (Northern Ireland) Order 1998.
- (2) Where this regulation applies—
- (a) in relation to an amount mentioned in paragraph (1) relating to child benefit or guardian's allowance under the Contributions and Benefits Act, neither subsection (5) nor (5A) of section 71 of the Administration Act (recoverability dependent on reversal, variation, revision or supersession of determination)(20) applies;
  - (b) in relation to an amount mentioned in paragraph (1) relating to child benefit or guardian's allowance under the Contributions and Benefits (NI) Act, neither subsection (5) nor (5A) of section 69 of the Administration (NI) Act (recoverability dependent on reversal, variation, revision or supersession of determination)(21) applies.

#### Commencement Information

- I36** [Reg. 36](#) in force at 7.4.2003, see [reg. 1](#)

- (18) S.I. 1984/1960. Regulation 7 was revoked, together with other parts of the instrument, by the Schedule to S.I. 1987/491 and Schedule 10 to S.I. 1987/1968.
- (19) S.R. 1985 No. 124. Regulation 7 was revoked, together with other parts of the instrument, by the Schedule to S.R. 1987 No. 122 and Schedule 9 to S.R. 1987 No. 465.
- (20) Subsection (5) of section 71 was amended, and subsection (5A) of that section inserted, by section 1(3) and (4) of the Social Security (Overpayments) Act 1996 (c. 51) and both those subsections were amended by paragraph 81(2) and (3) of the Social Security Act 1998.
- (21) Subsection (5) of section 69 was amended, and subsection (5A) of that section inserted, by section 2(3) and (4) of the Social Security (Overpayments) Act 1996 and both those subsections were amended by paragraph 62(2) and (3) of Schedule 6 to S.I. 1998/1506 (N.I. 10).

### Calculating recoverable amounts

37. Where there has been an overpayment of child benefit or guardian's allowance, in calculating the amounts recoverable under section 71(1) of the Administration Act, section 69(1) of the Administration (NI) Act or regulation 35, the adjudicating authority must deduct any amount which is offset under regulation 38.

#### Commencement Information

I37 Reg. 37 in force at 7.4.2003, see reg. 1

### Offsetting prior payments of child benefit and guardian's allowance against arrears payable by virtue of a subsequent determination

38.—(1) Subject to regulation 40, in either of the cases specified in paragraphs (2) and (3)—

- (a) a sum of child benefit paid for a period covered by a subsequent determination shall be offset against any arrears of entitlement to the benefit payable for that period by virtue of the subsequent determination;
- (b) a sum of guardian's allowance paid for a period covered by a subsequent determination shall be offset against any arrears of entitlement to the allowance payable for that period by virtue of the subsequent determination,

and, except to the extent that it exceeds them, the sum so paid shall be treated as properly paid on account of the arrears.

(2) The case specified in this paragraph is where a person has been paid a sum pursuant to a determination which subsequently—

- (a) is revised under section 9 or superseded under section 10 of the Social Security Act 1998;
- (b) is revised under Article 10 or superseded under Article 11 of the Social Security (Northern Ireland) Order 1998; or
- (c) is overturned on appeal.

(3) The case specified in this paragraph is where a person has been paid a sum for a period by way of an increase in respect of a dependent person and it is subsequently determined that—

- (a) the dependent person is entitled to the benefit or allowance for that period; or
- (b) a third person is entitled to the increase for that period in priority to the person who has been paid.

(4) Where child benefit which has been paid under an award in favour of a person ("the first claimant") is subsequently awarded to another ("the second claimant") for any week, the benefit shall nevertheless be treated as properly paid if it was received by someone (other than the first claimant) who—

- (a) had [<sup>F55</sup>the child or qualifying young person] living with him or was contributing towards the cost of providing for [<sup>F55</sup>the child or qualifying young person] at a weekly rate which was not less than the weekly rate under the original award; and
- (b) could have been entitled to child benefit in respect of [<sup>F56</sup>that child or qualifying young person] for that week had a claim been made in time.

(5) Any amount which is treated under paragraph (4) as properly paid shall be deducted from the amount payable to the second claimant under the subsequent award.

#### Textual Amendments

- F55** Words in [reg. 38\(4\)\(a\)](#) substituted (10.4.2006) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/203\)](#), [regs. 1, 2\(7\)\(a\)](#)
- F56** Words in [reg. 38\(4\)\(b\)](#) substituted (10.4.2006) by [The Child Benefit and Guardian's Allowance \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/203\)](#), [regs. 1, 2\(7\)\(b\)](#)

#### Commencement Information

- I38** [Reg. 38](#) in force at 7.4.2003, see [reg. 1](#)

### Offsetting prior payments of income support or jobseeker's allowance against arrears of child benefit or guardian's allowance payable by virtue of a subsequent determination

**39.**—(1) This regulation applies where—

- (a) a person has been paid a sum by way of income support or jobseeker's allowance; and
- (b) it is subsequently determined that—
  - (i) child benefit or guardian's allowance should be awarded or is payable in lieu of the income support or jobseeker's allowance; and
  - (ii) the income support or jobseeker's allowance was not payable.

(2) Subject to regulation 40, any sum of income support or jobseeker's allowance in respect of the period covered by the subsequent determination—

- (a) shall be offset against any arrears of entitlement to the child benefit or guardian's allowance payable for that period by virtue of that determination; and
- (b) except to the extent that it exceeds them, the sum so paid shall be treated as properly paid on account of the arrears.

#### Commencement Information

- I39** [Reg. 39](#) in force at 7.4.2003, see [reg. 1](#)

### Exception from offset of recoverable overpayment

**40.** No amount may be offset under regulation 38(1) or 39(2) which has been determined to be a recoverable overpayment for the purposes of section 71(1) of the Administration Act or section 69(1) of the Administration (NI) Act.

#### Commencement Information

- I40** [Reg. 40](#) in force at 7.4.2003, see [reg. 1](#)

### Bringing interim payments into account

**41.**—(1) Subject to paragraph (2), if it is practicable to do so—

- (a) any interim payment made in anticipation of an award of child benefit or guardian's allowance shall be offset by the adjudicating authority in reduction of the benefit or allowance to be awarded;

- (b) any interim payment (whether or not made in anticipation of an award) which is not offset under sub-paragraph (a) shall be deducted by the Board from—
- (i) the sum payable under the award of benefit or allowance on account of which the interim payment was made; or
  - (ii) any sum payable under any subsequent award of the benefit or allowance to the same person.
- (2) Paragraph (1) does not apply unless the Board have given the notice required by regulation 22(3).

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**Commencement Information**

**I41** [Reg. 41](#) in force at 7.4.2003, see [reg. 1](#)

**Recovery of overpaid interim payments**

**42.**—(1) Subject to paragraph (2), if the adjudicating authority, in the circumstances specified in either of paragraphs (3) and (4), has determined that an interim payment has been overpaid, it shall determine the amount of the overpayment.

(2) Paragraph (1) does not apply unless the Board have given the notice required by regulation 22(3).

(3) The circumstances specified in this paragraph are where an interim payment has been made under regulation 22(1)(a) and (b) and—

- (a) the recipient has failed to make a claim in accordance with these Regulations as soon as practicable;
- (b) the recipient has made a defective application and the Board have not treated the claim as duly made under regulation 10;
- (c) it has been determined that—
  - (i) there is no entitlement on the claim;
  - (ii) the entitlement is less than the amount of the interim payment; or
  - (iii) the benefit or allowance on the claim is not payable; or
- (d) the claim has been withdrawn.

(4) The circumstances specified in this paragraph are where an interim payment has been made under regulation 22(1)(c) which exceeds the entitlement under the award of benefit on account of which the interim payment was made.

(5) The amount of any overpayment determined under paragraph (1) shall be recoverable by the Board in the same manner as it would be if it were recoverable under—

- (a) in relation to child benefit or guardian's allowance under the Contributions and Benefits Act, section 71(1) of the Administration Act;
- (b) in relation to child benefit or guardian's allowance under the Contributions and Benefits (NI) Act, section 69(1) of the Administration (NI) Act.

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**Commencement Information**

**I42** [Reg. 42](#) in force at 7.4.2003, see [reg. 1](#)



[<sup>F57</sup>**Recovery of overpayments from awards of child benefit and guardian's allowance**

**42A.**—(1) Where any amount of child benefit or guardian's allowance is recoverable from a person under—

- (a) section 71(1) of the Administration Act,
- (b) section 69(1) of the Administration (NI) Act, or
- (c) regulation 35(1) or 42(5),

that amount may be recovered by the adjudicating authority from any child benefit or guardian's allowance payable to that person.

(2) For the purposes of paragraph (1), child benefit or guardian's allowance payable includes any payment of arrears of child benefit or guardian's allowance other than a payment of arrears required to be made by regulation 21(1) of the Child Benefit and Guardian's Allowance (Decisions and Appeals) Regulations 2003.]

**Textual Amendments**

**F57** [Reg. 42A](#) inserted (8.5.2012) by [The Child Benefit and Guardian's Allowance \(Administration\) \(Amendment\) Regulations 2012 \(S.I. 2012/1074\)](#), regs. 1, 3

## PART 6

### REVOCATIONS AND TRANSITIONAL PROVISIONS

#### Revocations

**43.** The subordinate legislation specified in column (1) of Parts 1 and 2 of Schedule 3, in so far as it relates to child benefit or guardian's allowance, is revoked to the extent mentioned in column (3) of that Schedule.

**Commencement Information**

**I43** [Reg. 43](#) in force at 7.4.2003, see [reg. 1](#)

#### Transitional provisions

**44.**—(1) Anything done or commenced under any provision of the instruments revoked by regulation 43, so far as relating to child benefit or guardian's allowance, is to be treated as having been done or as being continued under the corresponding provision of these Regulations.

(2) The revocation by regulation 43 of an instrument which itself revoked an earlier instrument subject to savings does not prevent the continued operation of those savings, in so far as they are capable of continuing to have effect.

(3) "Instrument" includes a Statutory Rule of Northern Ireland.

**Commencement Information**

**I44** [Reg. 44](#) in force at 7.4.2003, see [reg. 1](#)

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**Changes to legislation:** *There are currently no known outstanding effects for the The Child Benefit and Guardian's Allowance (Administration) Regulations 2003. (See end of Document for details)*

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5th March 2003

*Tim Flesher*  
*Dave Hartnett*  
Two of the Commissioners of Inland Revenue

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Benefit and Guardian's Allowance (Administration) Regulations 2003.