
STATUTORY INSTRUMENTS

2003 No. 492

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

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 [^{F1}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 [^{F2}regulation 16] into the person's account;
- (b) the receipt by the person of a payment made by some other means.

Textual Amendments

- F1** 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**
- F2** 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

- I1** [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

I2 [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 [^{F3}, 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 [^{F4}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

- F3** 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)**
- F4** 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

- I3** [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

- I4** [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

I5 [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

I6 [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 [^{F5}or qualifying young person] in respect of whom the benefit or allowance is payable.

Textual Amendments

F5 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

I7 [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 [^{F6}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 [^{F7}woman] has elected that the allowance is not to be paid to her husband [^{F8}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)(1).

Textual Amendments

- F6** 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\(3\)\(a\)](#)
- F7** 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\(3\)\(b\)\(i\)](#)
- F8** 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

- I8** [Reg. 34](#) in force at 7.4.2003, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Child Benefit and Guardian's Allowance (Administration) Regulations 2003, PART 4.