

2004 No. 3382

CHILD TRUST FUNDS

The Child Trust Funds (Amendment No. 2) Regulations 2004

<i>Made</i>	- - - -	<i>21st December 2004</i>
<i>Laid before Parliament</i>		<i>21st December 2004</i>
<i>Coming into force</i>		<i>6th April 2005</i>

The Treasury, in exercise of the powers conferred upon them by sections 3(2), (5), (7) and (10), 16 and 28(1) to (4) of the Child Trust Funds Act 2004(a), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Child Trust Funds (Amendment No. 2) Regulations 2004 and shall come into force on 6th April 2005.

Amendments to the Child Trust Funds Regulations 2004

2. The Child Trust Funds Regulations 2004(b) are amended as follows.

3. In regulation 13(11)(c) add at the end “and shall be treated as a party to the existing management agreement for the account in question”.

4. In regulation 33(d) add at the end—

“(8) Regulations 34 and 35 shall apply to local authorities, as if, in those regulations, for—

(a) “relevant person” there were substituted “local authority”; and

(b) references to an account or account investments there were substituted references to returns, forms or children mentioned in this regulation and regulation 33A,

so far as the Board may reasonably require information to be provided or records to be made available for the purposes of this regulation and regulation 33A.”.

5. After regulation 33 insert—

“The Official Solicitor or Accountant of Court to be the person who has the authority to manage an account

33A.—(1) Every local authority shall be under a duty to —

(a) 2004 c. 6.

(b) S.I. 2004/1450; amended by S.I. 2004/2676.

(c) Regulation 13(11) was inserted by regulation 9 of S.I. 2004/2676.

(d) Regulation 33 was amended (and paragraph (7) inserted) by regulation 14 of S.I. 2004/2676.

- (a) identify any child born after 31st August 2002 and under 16, who falls within the circumstances specified in paragraph (2) and, for each such child,
 - (b) deliver a form (as part of the return required by regulation 33(2) or (4), as the case may be) in accordance with paragraph (3)(a).
- (2) The circumstances specified are where—
- (a) the child is looked after (in Scotland, looked after and accommodated) by the local authority, and
 - (b) at least one of the following conditions is satisfied.

Condition 1

There is no person, or no person other than the local authority, who has parental responsibility (in Scotland, parental responsibilities) for the child.

Condition 2

It is part of the care plan for the child that—

- (a) the child will live indefinitely away from home (or his former home), and
- (b) the child will not have face to face contact with any parent having parental responsibility (in Scotland, parental responsibilities) for the child.

Condition 3

An order has been made under section 34(4) of the Children Act 1989(a) or Article 53(4) of the Children (Northern Ireland) Order 1995(b), authorising the local authority to refuse to allow contact between the child and any person with parental responsibility (or, in Scotland, a supervision requirement made with a condition regulating contact under section 70(5)(b) of the Children (Scotland) Act 1995(c) that the child shall have no contact with a person with parental responsibilities), and there is no other individual with parental responsibility (in Scotland, parental responsibilities) for the child to act as registered contact.

Condition 4

The Court of Protection has—

- (a) appointed a receiver for a person with parental responsibility for the child, or
- (b) determined that such a person is a “patient” for the purposes of Part 7 of the Mental Health Act 1983(d),

and there is no other individual with parental responsibility for the child to act as registered contact.

In Scotland, in this Condition for—

- (a) “Court of Protection” substitute “Sheriff”,
- (b) “receiver” substitute “guardian appointed under section 58 of the Adults with Incapacity (Scotland) Act 2000(e)”,
- (c) the reference to a patient, substitute “incapable for the purposes of the Adults with Incapacity (Scotland) Act 2000,” and
- (d) “parental responsibility” substitute “parental responsibilities”.

Condition 5

The child has been lost or abandoned, and there is no prospect for the foreseeable future of reunification of the child with a parent having parental responsibility (in Scotland, parental responsibilities) for the child.

In this Condition, “lost or abandoned”—

(a) 1989 c. 41.
 (b) S.I. 1995/755 (N.I. 2).
 (c) 1995 c. 36.
 (d) 1983 c. 20.
 (e) 2000 asp 4.

- (a) in England and Wales, has the meaning in section 20(1)(b) of the Children Act 1989;
- (b) in Northern Ireland, has the meaning in Article 21(1)(b) of the Children (Northern Ireland) Order 1995; and
- (c) in Scotland, has the meaning in section 25(1)(b) of the Children (Scotland) Act 1995.

(3) Where—

- (a) the local authority (by a means authorised by regulation 33) delivers to the Board a form specified by the Board, giving particulars of the child and of the circumstances specified in paragraph (2) relevant to the child, and
- (b) the Board (subject to checking and if necessary correcting the contents of the form) delivers it to the Official Solicitor (where the child is in England and Wales or Northern Ireland) or the Accountant of Court (where the child is in Scotland),

the Official Solicitor or Accountant of Court, as the case may be, shall be the person who has the authority to manage the child’s account for the purposes of section 3(6)(b) of the Act.

(4) The Official Solicitor or Accountant of Court shall cease to be the person who has the authority to manage the child’s account (and shall be discharged from the duties of registered contact) where—

- (a) the child attains the age of 16,
- (b) in any case where the child is under 16 and still looked after (in Scotland, looked after and accommodated) by a local authority—
 - (i) the local authority confirms to the Official Solicitor or Accountant of Court that there is a named responsible person in relation to the child, who is able to be the registered contact for the child’s account, and that none of the Conditions in paragraph (2) applies, and
 - (ii) the Official Solicitor or Accountant of Court cancels his declaration and authorisation in accordance with regulation 13(7) and is replaced as registered contact by that responsible person, in accordance with regulation 13(10), or
- (c) in any case where the child is under 16 and is not looked after (in Scotland, looked after and accommodated) by a local authority—
 - (i) a responsible person for the child provides evidence to the satisfaction of the Official Solicitor or Accountant of Court, as the case may be, that he has parental responsibility for the child, and
 - (ii) the Official Solicitor or Accountant of Court cancels his declaration and authorisation in accordance with regulation 13(7) and is replaced as registered contact by that responsible person, in accordance with regulation 13(10).

(5) A local authority shall, for the purposes of paragraph (4), confirm to the Official Solicitor or Accountant of Court, as the case may be—

- (a) whether the child is still looked after (in Scotland, looked after and accommodated) by the authority, and
- (b) the identity of the person or persons who had parental responsibility for the child at the date when he ceased to be looked after (in Scotland, looked after and accommodated) by the authority (or, at the option of the authority, any later date).

(6) Expressions defined in regulation 33 shall bear the same meanings in this regulation.”

6. In the Schedule to the Regulations—

- (a) after paragraph 2(2)(ba) insert—

“(baa)when the Bank of England base rate increases, the interest rate on investments referred to in regulation 12(2)(k) and (l) (cash deposited in a deposit account or in a share account) must be raised within one month of the date of that increase ;”;

(b) in paragraph 2(2)(bb)(i) for “or (d)” substitute “, (d) or (e)”;

(c) in paragraph 2(2)(bb)(ii) omit “, (e)”.

*Jim Murphy
Nick Ainger*

21st December 2004

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the Child Trust Funds Regulations 2004 (S.I. 2004/1450: “the main Regulations” which have already been amended once by S.I. 2004/2676). The main effect of the amendments is to make provision for the Official Solicitor (or Accountant of Court, in Scotland) to give instructions for the management of accounts of children looked after by a local authority who have no-one appropriate to act as “registered contact” for their account. There are also technical amendments to the main Regulations.

Regulation 1 provides for citation and commencement and regulation 2 for the amendment of the main Regulations.

Regulations 3 and 6 provide for technical amendments to the main Regulations, including provision for stakeholder accounts.

Regulation 4 extends information and inspection of record powers in regulations 34 and 35 of the main Regulations to local authorities (for the purposes of their role under regulations 33 and 33A).

Regulation 5 provides for the circumstances in which the Official Solicitor (or Accountant of Court in Scotland) is to act as registered contact for a looked after child’s account, and the circumstances in which he is to cease to act.

A full Regulatory Impact Assessment was prepared and issued on the introduction to Parliament of the Child Trust Funds Bill (passed as the 2004 Act) in November 2003.

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