

2010 No. 2459

SOCIAL SECURITY

**The Child Benefit and Guardian's Allowance (Administration)
(Amendment) Regulations 2010**

<i>Made</i>	- - - -	<i>8th October 2010</i>
<i>Laid before Parliament</i>		<i>11th October 2010</i>
<i>Coming into force</i>	- -	<i>1st November 2010</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 5(1)(i) and (2)(a) and (g) and 189(5) of the Social Security Administration Act 1992(a) and sections 5(1)(j) and (2)(a) and (g) and 165(5) of the Social Security Administration (Northern Ireland) Act 1992(b), make the following Regulations(c):

Citation and commencement

1. These Regulations may be cited as the Child Benefit and Guardian's Allowance (Administration) (Amendment) Regulations 2010 and shall come into force on 1st November 2010.

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

2. In the Child Benefit and Guardian's Allowance (Administration) Regulations 2003(d)—
- (a) for regulations 16 (manner of payment) and 17 (direct credit transfers) and the headings immediately preceding them substitute—

(a) 1992 c. 5; for the application of section 5(1)(i) and (2)(a) to guardian's allowance, see the definition of "benefit" in section 122(1) and section 77 of the Social Security Contributions and Benefits Act 1992 (c. 4).

(b) 1992 c. 8; for the application of section 5(1)(j) and (2)(a) to guardian's allowance, see the definition of "benefit" in section 121(1) and section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

(c) Section 189(1) of the Social Security Administration Act 1992 (c. 5) ("the Administration Act") provides, subject to the exceptions mentioned therein, that regulations under the Administration Act shall be made by the Secretary of State. Sections 165(1) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) ("the Administration (NI) Act") provide, subject to the exceptions mentioned therein, that regulations made under the Administration (NI) Act shall be made by the Department of Health and Social Services for Northern Ireland ("the DHSSNI"). The functions of the DHSSNI in respect of the Administration (NI) Act were transferred to the Department for Social Development in Northern Ireland ("the DSDNI") by Article 8(b) of, and Part II of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. (NI) 1999 No 481). Sections 50(1) and (2)(b) and (d) and 67 of the Tax Credits Act 2002 (c. 21) provide, in relation to child benefit and guardian's allowance, for the functions of the Secretary of State under the Administration Act and the functions of the DSDNI under the Administration (NI) Act to be transferred to the Commissioners of Inland Revenue. These functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11) ("the CRCA"). Section 50(1) of the CRCA provides that a reference to the Commissioners of Inland Revenue shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 189(5) of the Administration Act was amended by paragraph 109(d) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c. 14).

(d) S.I. 2003/492; the relevant amending instrument is S.I. 2006/203.

“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 to a person shall be made by direct credit transfer into a bank or other account that has been notified to the Board^(a) 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.

(4) The bank account or other account into which the Board may make payment of the allowance or benefit must be—

- (a) in the name of—
 - (i) the person entitled to the benefit or allowance (“the person”),
 - (ii) the person’s partner, or
 - (iii) a person acting on behalf of the person; or
- (b) in the joint names of the person and—
 - (i) the person’s partner, or
 - (ii) a person acting on the person’s behalf.

(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.

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

(a) The definition “the Board” in regulation 2 of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003 was amended by S.I. 2006/203 to mean the Commissioners for Her Majesty’s Revenue and Customs.

- (ii) ceases to be entitled to any part of the benefit or allowance to which the instrument relates.”;
- (b) in regulations 25(a), 27(2)(a), 29(4)(a) and 35(1)(a), for “regulation 17” substitute “regulation 16”; and
- (c) in regulation 35(2)(b), for “before he agreed to the arrangement” substitute “before the Board made the arrangement for the payment of child benefit or guardian’s allowance into that account”.

*Dave Hartnett
Bernadette Kenny*

8th October 2010

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st November 2010 amend the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003 (S.I. 2003/492) (“the Administration Regulations”).

Regulation 2 substitutes regulations 16 and 17 of the Administration Regulations so that payment of child benefit and guardian’s allowance will be made by direct credit transfer into a bank account or other account unless payment is made by other means where it appears to the Commissioners for Her Majesty’s Revenue and Customs to be appropriate to do so in the circumstances of a particular case. Consequential amendments are made to regulations 25(a), 27(2)(a), 29(4)(a) and 35(1)(a) and (2)(b) of the Administration Regulations.

A full impact assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.