



# Child Trust Funds Act 2004

## 2004 CHAPTER 6

### *Introductory*

#### **1 Child trust funds**

- (1) This Act makes provision about child trust funds and related matters.
- (2) In this Act “child trust fund” means an account which—
  - (a) is held by a child who is or has been an eligible child (see section 2),
  - (b) satisfies the requirements imposed by and by virtue of this Act (see section 3), and
  - (c) has been opened in accordance with this Act (see sections 5 and 6).
- (3) The matters dealt with by and under this Act are to be under the care and management of the Inland Revenue.

#### **2 Eligible children**

- (1) For the purposes of this Act a child is an “eligible child” if the child was born after 31st August 2002 and either—
  - (a) a person is entitled to child benefit in respect of the child, or
  - (b) entitlement to child benefit in respect of the child is excluded by the provisions specified in subsection (2)(a) or (b) (children in care of authority),but subject as follows.
- (2) The provisions referred to in subsection (1)(b) are—
  - (a) paragraph 1(c) of Schedule 9 to the Social Security Contributions and Benefits Act 1992 (c. 4) and regulations made under it, and
  - (b) paragraph 1(1)(f) of Schedule 9 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) and regulations made under it.
- (3) Where entitlement to child benefit in respect of a child is excluded because of a directly applicable Community provision or an international agreement, subsection (1) applies as if that exclusion did not apply.

- (4) Where a person is entitled to child benefit in respect of a child only because of a directly applicable Community provision or an international agreement, subsection (1) applies as if the person were not so entitled.
- (5) A child who—
- (a) does not have the right of abode in the United Kingdom within the meaning given by section 2 of the Immigration Act 1971 (c. 77),
  - (b) is not a qualified person, or a family member of a qualified person, within the meaning of the Immigration (European Economic Area) Regulations 2000 (S.I. 2000/2326), and
  - (c) is not settled in the United Kingdom within the meaning given by section 33(2A) of the Immigration Act 1971,
- is not an eligible child.
- (6) A person is not to be regarded for the purposes of subsection (1)(a) as entitled to child benefit in respect of a child (otherwise than by virtue of subsection (3)) unless it has been decided in accordance with—
- (a) Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14), or
  - (b) Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)),
- that the person is so entitled (and that decision has not been overturned).
- (7) Regulations may amend subsection (1) by substituting for the reference to 31st August 2002 a reference to an earlier date.

### **3 Requirements to be satisfied**

- (1) A child trust fund may be held only with a person (referred to in this Act as an “account provider”) who has been approved by the Inland Revenue in accordance with regulations.
- (2) An account is not a child trust fund unless it is an account of one of the descriptions prescribed by regulations.
- (3) The provision which may be made by regulations under subsection (1) includes making approval of an account provider dependent on the person undertaking to provide accounts of such of the descriptions for which provision is made by regulations under subsection (2) as is prescribed by the regulations.
- (4) The terms of a child trust fund must—
- (a) secure that it is held in the name of a child,
  - (b) secure that the child is beneficially entitled to the investments under it,
  - (c) secure that all income and gains arising on investments under it constitute investments under it,
  - (d) prevent withdrawals from it except as permitted by regulations, and
  - (e) provide that instructions may be given to the account provider with respect to its management only by the person who has the authority to manage it.
- (5) Regulations may impose other requirements which must be satisfied in relation to child trust funds.
- (6) The person who has the authority to manage a child trust fund held by a child—

- (a) if the child is 16 or over, is the child, and
  - (b) if the child is under 16, is the person who has that authority by virtue of subsection (7) (but subject to subsection (10)).
- (7) If there is one person who is a responsible person in relation to the child, that person has that authority; and if there is more than one person who is such a person, which of them has that authority is to be determined in accordance with regulations.
- (8) For the purposes of this Act a person is a responsible person in relation to a child under 16 if the person has parental responsibility in relation to the child and is not—
- (a) a local authority or, in Northern Ireland, an authority within the meaning of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), or
  - (b) a person under 16.
- (9) “Parental responsibility” means—
- (a) parental responsibility within the meaning of the Children Act 1989 (c. 41) or the Children (Northern Ireland) Order 1995, or
  - (b) parental responsibilities within the meaning of the Children (Scotland) Act 1995 (c. 36).
- (10) Regulations may provide that, in circumstances prescribed by the regulations, the person who has the authority to manage a child trust fund held by a child under 16 is to be the Official Solicitor (in England and Wales or Northern Ireland) or the Accountant of Court (in Scotland).
- (11) A person who has the authority to manage a child trust fund by virtue of subsection (10) is entitled to give any instructions to the account provider with respect to its management which appear to the person who has that authority to be for the benefit of the child.
- (12) Where a contract is entered into by or on behalf of a child who is 16 or over in connection with a child trust fund—
- (a) held by the child, or
  - (b) held by another child in relation to whom the child has parental responsibility, the contract has effect as if the child had been 18 or over when it was entered into.

#### **4 Inalienability**

- (1) Any assignment of, or agreement to assign, investments under a child trust fund, and any charge on or agreement to charge any such investments, is void.
- (2) On the bankruptcy of a child by whom a child trust fund is held, the entitlement to investments under it does not pass to any trustee or other person acting on behalf of the child’s creditors.
- (3) “Assignment” includes assignation; and “assign” is to be construed accordingly.
- (4) “Charge on or agreement to charge” includes a right in security over or an agreement to create a right in security over.
- (5) “Bankruptcy”, in relation to a child, includes the sequestration of the child’s estate.