EXPLANATORY MEMORANDUM TO

THE CHILD TRUST FUNDS (AMENDMENT No. 2) REGULATIONS 2017

2017 No. 748

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) on behalf of HM Treasury and is laid before the Houses of Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The instrument amends the Child Trust Funds Regulations 2004 (S.I.2004/1450) with regard to the management of Child Trust Fund (CTF) accounts of children looked after by a local authority ("looked after children", formerly "in care"). References to the Official Solicitor and Accountant of Court are replaced by references to a person appointed by the Treasury or the Secretary of State. The instrument also amends the rules relating to the point at which an individual's CTF falls under the management of the appointed person, and makes ancillary changes relating to local authority reporting requirements and the transfer of information between appointed persons.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 A CTF is a tax advantaged savings product providing relief from tax for children. The CTF rules are set out in the Child Trust Funds Regulations 2004 (S.I.2004/1450), which this instrument further amends.

4.2 This instrument is made under powers in the Child Trust Funds Act 2004.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 CTFs (with a Government contribution) were provided to all children born between 1 September 2002 and 3 January 2011 and were designed to provide an asset when a child reached adulthood. Where an account was not opened by the child's parent, one was opened on the child's behalf by HMRC. The scheme was closed to new entrants in January 2011 but existing accounts remain open for contributions and management purposes.

7.2 Most CTFs are managed by the child's parent. Where a child is 'looked after' and there is no responsible person, the legislation provides that only the Official Solicitor in England and Wales or Northern Ireland or Accountant of Court, in Scotland, may manage the account on the child's behalf.

7.3 An equivalent scheme provides Junior ISAs for looked after children who are ineligible for a CTF. This scheme is managed by a person, appointed by the Secretary of State at the Department for Education and, in addition to managing the accounts on the child's behalf, provides financial education and funding raising activities.

7.4 The government considered that a single provider managing the CTFs and Junior ISAs of looked after children had the potential to provide greater and more focused financial support to the children in addition to its management role. The Deregulation Act 2015 amended the Child Trust Fund Act 2004 c.6 to permit a wider range of organisations, including third sector bodies, to be authorised by regulations to manage CTFs for looked after children. It amended section 3(10) of the Child Trust Funds Act 2004 to replace the reference to the Official Solicitor and Accountant of Court with a reference to 'a person appointed by the Treasury or Secretary of State'. It also provided for the payment of such a person and for the transfer of relevant information relating to these accounts between appointed parties.

7.5 This instrument amends regulation 33A of the CTF Regulations to provide that, with effect from 1 October 2017, the person appointed by the Treasury or Secretary of State is the person with authority, in specified circumstances, to manage CTFs. With effect from 1 October that person will be The Share Foundation, a charity which has also been appointed to manage equivalent Junior ISAs by the Secretary of State at the Department for Education.

7.6 The instrument also amends regulation 33A to remove the requirement for local authorities to identify, and provide information to HMRC, where a child becomes looked after. In the future this information will be provided directly to the appointed person. It also inserts a requirement for the transfer of information between appointed persons where a new person is appointed to manage CTFs.

7.7 The instrument further makes consequential changes to the CTF Regulations 10, 13 and 33A to replace references to the Official Solicitor and Accountant of Court with references to the appointed person.

Consolidation

7.8 There are no plans to consolidate the CTF Regulations.

8. Consultation outcome

8.1 Informal consultation on these regulations has taken place between affected Government Departments, the Official Solicitors and the Accountant of Court, and other interested parties. No adverse comments have been received.

9. Guidance

9.1 HMRC Guidance Notes for CTF providers will be amended to reflect the changes to the CTF rules. The Guidance Notes are available at https://www.gov.uk/government/collections/child-trust-fund-for-fund-providers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is limited to the opportunity which is provided to appoint a party other than the Official Solicitor and Accountant of Court, such as a charity.

10.2 The impact on the public sector is limited. Although the legislation will remove the requirement for local authorities to provide certain relevant information to HMRC, they will be required to provide equivalent information to the appointed person, under powers in the Local Authority Social Services Act 1970.

10.3 A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 HMRC will monitor the impact of these changes on an ongoing basis using the information provided by the appointing Department.

13. Contact

13.1 Helen Williams at HM Revenue and Customs - Telephone: 03000 512336 or email: savings.audit@hmrc.gsi.gov.uk can answer any queries regarding the instrument.