

**2002 No. 2926**

**TAX CREDITS**

**The Tax Credits (Appeals) Regulations 2002**

<i>Made</i> - - - -	<i>26th November 2002</i>
<i>Laid before Parliament</i>	<i>26th November 2002</i>
<i>Coming into force</i> - -	<i>17th December 2002</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 63(8) and 65(2) and (6) of the Tax Credits Act 2002(a), with the consent of the Lord Chancellor and the Scottish Ministers, hereby make the following Regulations:

**Citation, commencement and duration**

1.—(1) These Regulations may be cited as the Tax Credits (Appeals) Regulations 2002 and shall come into force on 17th December 2002.

(2) These Regulations shall cease to have effect on such day as is appointed by order made under section 63(1) of the Tax Credits Act 2002 (tax credits appeals etc.: temporary modifications).

**Interpretation**

2. In these Regulations—

“appeal tribunal” means an appeal tribunal constituted—

- (a) in Great Britain, under Chapter 1 of Part 1 of the Social Security Act 1998(b) (social security appeals: Great Britain), or
- (b) in Northern Ireland, under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998(c) (social security appeals: Northern Ireland);

“tax credit appeal” means an appeal which, by virtue of section 63 of the Tax Credits Act 2002 or of provisions applied by these Regulations, is to an appeal tribunal or lies to a Social Security Commissioner;

“Social Security Commissioner” means—

- (a) in Great Britain, the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Act 1998 or a tribunal of three or more Commissioners constituted under section 16(7) of that Act, and
- (b) in Northern Ireland, the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Administration (Northern Ireland) Act 1992(d) or a tribunal of two or more Commissioners

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(a) 2002 c.21.  
(b) 1998 c.14.  
(c) S.I. 1998/1506 (N.I.10).  
(d) 1992 c.8.

constituted under Article 16(7) of the Social Security (Northern Ireland) Order 1998;

“the 1998 Act” means the Social Security Act 1998;

“the 1998 Order” means the Social Security (Northern Ireland) Order 1998.

### **Application of section 54 of the Taxes Management Act 1970**

3.—(1) Section 54 of the Taxes Management Act 1970(a) (settling of appeals by agreement) shall apply to a tax credit appeal to an appeal tribunal with the modifications prescribed by paragraphs (2) to (8).

(2) In subsection (1) for “Commissioners”, in both places where that word occurs, substitute the words “appeal tribunal”.

(3) In subsections (1) and (4) omit the words “assessment or”, in each place where they occur.

(4) In subsections (1), (2) and (4)(a) for “inspector or other proper officer of the Crown” substitute the words “officer of the Board”.

(5) For subsection (3) substitute the following subsection—

“(3) Where an agreement is not in writing—

(a) the preceding provisions of this section shall not apply unless the Board give notice, in such form and manner as they consider appropriate, to the appellant of the terms agreed between the officer of the Board and the appellant; and

(b) the references in those preceding provisions to the time when the agreement was come to shall be construed as references to the date of that notice.”.

(6) In subsection (4)(b) for “inspector or other proper officer giving” substitute the words “officer of the Board giving”.

(7) In subsection (4) for “inspector or other proper officer had come” substitute the words “officer of the Board had come”.

(8) After subsection (5) add the following subsection—

“(6) In subsection (1) “appeal tribunal” means an appeal tribunal constituted—

(a) in Great Britain, under Chapter 1 of Part 1 of the Social Security Act 1998 (social security appeals: Great Britain), and

(b) in Northern Ireland, under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998 (social security appeals: Northern Ireland).”.

### **Application of section 12 of the 1998 Act and Article 13 of the 1998 Order**

4.—(1) Section 12 of the 1998 Act and Article 13 of the 1998 Order(b) (appeals to an appeal tribunal) shall apply to a tax credit appeal to an appeal tribunal with the modifications prescribed by paragraphs (2) to (8).

(2) For subsections (1) and (2) of that section substitute the following subsections—

“(1) An appeal which is to an appeal tribunal by virtue of section 63 of the Tax Credits Act 2002, including an application for a direction under section 19(9) of that Act, (a “tax credit appeal”) may be brought by—

(a) a claimant whose claim for a tax credit is the subject of the appeal;

(b) the person on whom the penalty to which the appeal relates was imposed;

(c) the person applying for the direction under section 19(9) of that Act; or

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(a) 1970 c.9.

(b) Section 12 was amended by paragraph 25 of Schedule 7, and Schedule 10, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Article 13 was amended by paragraph 19 of Schedule 6 to S.I. 1999/671.

(d) such other person as may be prescribed.”.

(3) For paragraphs (1) and (2) of that Article substitute the following paragraph—

“(1) An appeal which is to an appeal tribunal by virtue of section 63 of the Tax Credits Act 2002, including an application for a direction under section 19(9) of that Act, (a “tax credit appeal”) may be brought by—

- (a) a claimant whose claim for a tax credit is the subject of the appeal;
- (b) the person on whom the penalty to which the appeal relates was imposed;
- (c) the person applying for a direction under section 19(9) of that Act; or
- (c) such other person as may be prescribed.”.

(4) Omit subsections (3) to (6) of that section and paragraphs (3) to (6) of that Article.

(5) In subsection (7) of that section and paragraph (7) of that Article add at the end “, and may in particular extend the time limit for giving notice of appeal specified in section 39(1) of the Tax Credits Act 2002”.

(6) In subsection (8) of that section for “an appeal under this section” substitute “a tax credit appeal”.

(7) In paragraph (8) of that Article for “an appeal under this Article” substitute “a tax credit appeal”.

(8) Omit subsections (8)(a) and (9) of that section and paragraphs (8)(a) and (9) of that Article.

#### **Application of section 13 of the 1998 Act and Article 14 of the 1998 Order**

5.—(1) Section 13 of the 1998 Act and Article 14 of the 1998 Order(a) (redetermination etc. of appeals by tribunal) shall apply to a decision of an appeal tribunal on a tax credit appeal (other than a decision on a tax credit appeal under Schedule 2 to the Tax Credits Act 2002) with the modifications prescribed by paragraphs (2) to (4).

(2) Omit subsection (3) of that section and paragraph (3) of that Article.

(3) In subsection (4) of that section—

- (a) omit the words “this section and”;
- (b) omit paragraph (b) and the word “and” immediately preceding it.

(4) In paragraph (4) of that Article—

- (a) omit the words “this Article and”;
- (b) omit sub-paragraph (a);
- (c) for sub-paragraph (b) substitute the following sub-paragraph—

“(b) the Board and the persons mentioned in paragraph (3)(b) of that Article.”.

#### **Application of section 14 of the 1998 Act and Article 15 of the 1998 Order**

6.—(1) Section 14(1) to (10) of the 1998 Act and Article 15(1) to (10) of the 1998 Order(b) (appeal from tribunal to Commissioner) shall apply to a decision of an appeal tribunal on a tax credit appeal (other than a decision on a tax credit appeal under Schedule 2 to the Tax Credits Act 2002) with the modifications prescribed by paragraphs (2) and (3).

(2) In that section—

- (a) in subsection (1) omit the words “under section 12 or 13 above”;
- (b) in subsection (3)(a) for “Secretary of State” substitute “Board”;

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(a) Section 13 was amended by paragraph 26 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Article 14 was amended by paragraph 20 of Schedule 6 to S.I. 1999/671.  
(b) Section 14 was amended by paragraph 27 of Schedule 7, and Schedule 10, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Article 15 was amended by paragraph 21 of Schedule 6 to S.I. 1999/671.

- (c) omit subsections (3)(d), (4) and (5)(c).
- (3) In that Article—
  - (a) in paragraph (1) omit the words “under Article 13 or 14”;
  - (b) in paragraph (3)(a) for “Department” substitute “Board”;
  - (c) omit paragraphs (3)(d), (4) and (5)(c).

7.—(1) Section 14(11) and (12) of, and Schedule 4 to, the 1998 Act and Article 15(11) to (13) of the 1998 Order (appeals and procedure before Commissioner) shall apply to a decision of an appeal tribunal on a tax credit appeal (including a decision on a tax credit appeal under Schedule 2 to the Tax Credits Act 2002) with the modifications prescribed by paragraphs (2) and (3).

(2) So far as concerns decisions on tax credit appeals under Schedule 2 to the Tax Credits Act 2002, in subsection (11) of that section and paragraph (11) of that Article omit the words “and applications made for leave to appeal”.

(3) In Schedule 4 to the 1998 Act for the words “Secretary of State”, wherever they occur, substitute “Board”.

#### **Application of section 15 of the Social Security Act 1998**

8. Section 15 of the 1998 Act (appeal from Commissioner on point of law) shall apply to a decision of a Social Security Commissioner on a tax credit appeal.

#### **Application of section 16 of the 1998 Act and Article 16 of the 1998 Order**

9.—(1) Section 16 of, and Schedule 5 to, the 1998 Act and Article 16 of, and Schedule 4 to, the 1998 Order (a) (procedure) shall apply for the purposes of a tax credit appeal with the modifications prescribed by paragraphs (2) to (6).

- (2) Omit subsection (3)(b) of that section and the word “and” immediately preceding it.
- (3) Omit paragraph (3)(b) of that Article and the word “and” immediately preceding it.
- (4) Omit subsections (4) and (5) of that section and paragraphs (4) and (5) of that Article.
- (5) In Schedule 5 to the 1998 Act—
  - (a) in paragraph 1, omit the words “the Secretary of State,”, in both places where they occur;
  - (b) in paragraph 4(b), add at the end “, including provision extending the time limit for giving notice of appeal specified in section 39(1) of the Tax Credits Act 2002”.
- (6) In Schedule 4 to the 1998 Order—
  - (a) in paragraph 1, omit the words “the Department”, in both places where they occur;
  - (b) in paragraph 4(b), add at the end “, including provision for extending the time limit for giving notice of appeal specified in section 39(1) of the Tax Credits Act 2002”.

#### **Application of section 17 of the 1998 Act and Article 17 of the 1998 Order**

10.—(1) Section 17 of the 1998 Act and Article 17 of the 1998 Order (finality of decisions) shall apply to a decision of an appeal tribunal or a Social Security Commissioner on a tax credit appeal with the modifications prescribed by paragraphs (2) to (4).

- (2) For subsection (1) of that section substitute the following subsection—
  - “(1) Subject to the provisions of—
    - (a) sections 12 to 16 of this Act, and
    - (b) the Tax Credits Act 2002,

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(a) Section 16 was amended by paragraph 28 of Schedule 7, and Schedule 10, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Paragraphs (4) and (5) of Article 16 were repealed by paragraph 22 of Schedule 6 to S.I. 1999/671.

any decision made in accordance with those provisions in respect of an appeal which, by virtue of section 63 of the Tax Credits Act 2002 (or of provisions of this Act applied by regulations made under that section), is to an appeal tribunal or lies to a Commissioner, shall be final.”.

(3) For paragraph (1) of that Article substitute the following paragraph—

“(1) Subject to the provisions of—

- (a) Articles 13 to 16 of this Order, and
- (b) the Tax Credits Act 2002,

any decision made in accordance with those provisions in respect of an appeal which, by virtue of section 63 of the Tax Credits Act 2002 (or of provisions of this Order applied by regulations made under that section), is to an appeal tribunal or lies to a Commissioner, shall be final.”.

(4) Omit subsection (2)(b) and (c) of that section and paragraph (2)(b) and (c) of that Article.

### **Application of section 28 of the 1998 Act and Article 28 of the 1998 Order**

**11.**—(1) Section 28 of the 1998 Act and Article 28 of the 1998 Order (correction of errors and setting aside of decisions) shall apply to a decision by an appeal tribunal or a Social Security Commissioner on a tax credit appeal with the modifications prescribed by paragraphs (2) to (4).

(2) For subsection (3) of that section substitute the following subsection—

“(3) In this section “relevant enactment” means—

- (a) any of sections 12 to 17 above, and
- (b) any enactment contained or referred to in section 19(10), 38 or 39 of, or Schedule 2 to, the Tax Credits Act 2002.”.

(3) For paragraph (3) of that Article substitute the following paragraph—

“(3) In this Article “relevant statutory provision” means—

- (a) any of Articles 13 to 17 above, and
- (b) any statutory provision contained or referred to in section 19(10), 38 or 39 of, or Schedule 2 to, the Tax Credits Act 2002.”.

(4) Omit subsection (1A) of that section and paragraph (1A) of that Article(a).

### **Application of section 39 of the 1998 Act and Article 39 of the 1998 Order**

**12.**—(1) Section 39 of the 1998 Act and Article 39 of the 1998 Order(b) (interpretation etc. of Chapter 2) shall apply for the purposes of a tax credit appeal with the modifications prescribed by paragraphs (2) to (4).

(2) In subsection (1) of that section—

(a) after the definition of “appeal tribunal” insert—

““the Board” means the Commissioners of Inland Revenue;”;

(b) for the definition of “claimant” substitute—

““claimant” means a person who makes (whether or not jointly with another) a claim for a tax credit in accordance with sections 3 and 4 of the Tax Credits Act 2002, and includes a person entitled to make such a claim on behalf of another person by virtue of regulation 17 or 18 of the Tax Credits (Claims and Notifications) Regulations 2002(c);”;

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(a) Subsection (1A) of section 28 was inserted by paragraph 34 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Paragraph (1A) of Article 28 was inserted by paragraph 28 of Schedule 6 to S.I. 1999/671.

(b) Section 39 was amended by paragraph 35 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Article 39 was amended by paragraph 29 of Schedule 6 to S.I. 1999/671.

(c) S.I.2002/2014.

- (c) omit the definitions of “relevant benefit” and “tax appeal Commissioners”.
- (3) In paragraph (1) of that Article—
- (a) for the definition of “Inland Revenue”(a) substitute—
- ““the Board” means the Commissioners of Inland Revenue;
- “claimant” means a person who makes (whether or not jointly with another) a claim for a tax credit in accordance with sections 3 and 4 of the Tax Credits Act 2002, and includes a person entitled to make such a claim on behalf of another person by virtue of regulation 17 or 18 of the Tax Credits (Claims and Notifications) Regulations 2002;”;
- (b) omit the definitions of “relevant benefit” and “tax appeal Commissioners”.
- (4) Omit subsections (2) and (3) of that section and paragraphs (2) and (3) of that Article.

26th November 2002

*Nick Montagu*  
*Tim Flesher*  
Two of the Commissioners of Inland Revenue

The Lord Chancellor consents to the making of these Regulations  
Signed by authority of the Lord Chancellor

20th November 2002

*Rosie Winterton*  
Parliamentary Secretary  
Lord Chancellor’s Department

The Scottish Ministers consent to the making of these Regulations

20th November 2002

*James Wallace*  
Deputy First Minister and Minister for Justice  
A member of the Scottish Executive

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(a) The definition was inserted by paragraph 29(a) of Schedule 6 to S.I. 1999/671.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 63 of the Tax Credits Act 2002 (c.21) (the 2002 Act”) provides that appeals against decisions under that Act relating to tax credit shall lie for a temporary period to the appeal tribunal constituted under Chapter 2 of Part 1 of the Social Security Act 1998 (c.14) (in Northern Ireland, Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), and not to the General or Special Commissioners as provided by section 39 of the 2002 Act. Section 63(8) of the 2002 Act provides that regulations may apply with modifications any provision of Chapter 2 of Part 1 of the Social Security Act 1998 (“the 1998 Act”), Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 (“the 1998 Order”), or section 54 of the Taxes Management Act 1970 (c.9) (settling of appeals by agreement), in relation to such appeals. These Regulations accordingly make such provision.

Regulation 1 provides for citation, commencement and duration, and regulation 2 for interpretation.

Regulation 3 applies section 54 of the Taxes Management Act 1970 with modifications.

Regulations 4 to 12 apply with modifications various provisions of the 1998 Act and the 1998 Order relating to appeals.

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STATUTORY INSTRUMENTS

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