
STATUTORY INSTRUMENTS

2002 No. 3196

The Tax Credits (Appeals) (No. 2) Regulations 2002

PART 3

APPEAL TRIBUNALS FOR TAX CREDITS

CHAPTER 2

**PROCEDURE IN CONNECTION WITH DETERMINATION OF APPEALS,
APPLICATIONS FOR DIRECTIONS AND PENALTY PROCEEDINGS**

Consideration and determination of appeals, applications for a direction and penalty proceedings

11.—(1) The procedure in connection with the consideration and determination of an appeal, an application for a direction or penalty proceedings shall, subject to the following provisions of these Regulations, be such as a legally qualified panel member shall determine.

(2) A legally qualified panel member may give directions requiring a party to the proceedings to comply with any provision of these Regulations and may at any stage of the proceedings, either of his own motion or on a written application made to the clerk to the appeal tribunal by any party to the proceedings, give such directions as he may consider necessary or desirable for the just, effective and efficient conduct of the proceedings and may direct any party to the proceedings to provide such particulars or to produce such documents as may be reasonably required.

(3) Where a clerk to the appeal tribunal is authorised to take steps in relation to the procedure of the tribunal he may give directions requiring any party to the proceedings to comply with any provision of these Regulations.

Directions concerning oral hearings

12.—(1) Where an appeal or an application for a direction is made to an appeal tribunal, the clerk to the appeal tribunal shall direct the appellant or applicant and any other party to the proceedings to notify the clerk to the appeal tribunal in writing whether he wishes to have an oral hearing of that appeal or that application, or whether he is content for that appeal or that application to proceed without an oral hearing.

(2) A direction under paragraph (1) shall include a statement informing the appellant or applicant that, if he does not respond in writing to the direction within the period specified in paragraph (3), the appeal or application for a direction may be struck out in accordance with regulation 16.

(3) A notification given in accordance with paragraph (1) must be received by the clerk to the appeal tribunal within 14 days of the date of issue of the direction of the clerk to the appeal tribunal under paragraph (1) or within such longer period as the clerk to the appeal tribunal may direct.

(4) Where a party to the proceedings notifies the clerk to the appeal tribunal in accordance with paragraph (3) that he wishes to have an oral hearing of the appeal or application for a direction, the appeal tribunal shall hold an oral hearing.

(5) The chairman, or in the case of an appeal tribunal which has only one member, that member, may of his own motion direct that an oral hearing of the appeal or application for a direction be held if he is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

Withdrawal of application for a direction or penalty proceedings

13.—(1) An application for a direction may be withdrawn by the applicant, or penalty proceedings may be withdrawn by the Board, at any time before that application is, or those proceedings are, determined, either—

(a) at an oral hearing; or

(b) by giving notice in writing of withdrawal to the clerk to the appeal tribunal.

(2) If an application for a direction is, or penalty proceedings are, withdrawn in accordance with paragraph (1)(a), the clerk to the appeal tribunal shall send a notice in writing to any party to the proceedings who is not present when the application for a direction is, or penalty proceedings are, withdrawn, informing him that the application for a direction has, or the penalty proceedings have, been withdrawn.

(3) If an application for a direction is, or penalty proceedings are, withdrawn in accordance with paragraph (1)(b), the clerk to the appeal tribunal shall send a notice in writing to every party to the proceedings informing them that the application for a direction has, or penalty proceedings have, been withdrawn.

Non-disclosure of medical advice or evidence

14.—(1) Where, in connection with an appeal, an application for a direction or penalty proceedings, there is medical advice or medical evidence relating to a person which has not been disclosed to him and in the opinion of a legally qualified panel member, the disclosure to that person of that advice or evidence would be harmful to his health, such advice or evidence shall not be required to be disclosed to that person.

(2) Advice or evidence such as is mentioned in paragraph (1)—

(a) shall not be disclosed to any person acting for or representing the person to whom it relates;

(b) shall not be disclosed to a joint claimant of the person to whom it relates or any person acting for or representing that joint claimant;

(c) in a case where a claim for a tax credit is made by reference to the disability of a person other than the claimant or joint claimant and the advice or evidence relates to that other person, shall not be disclosed to the claimant, joint claimant or any person acting for or representing the claimant or joint claimant,

unless a legally qualified panel member is satisfied that it is in the interests of the person to whom the advice or evidence relates to do so.

(3) A tribunal shall not be precluded from taking into account for the purposes of the determination advice or evidence which has not been disclosed to a person under the provisions of paragraph (1) or (2).

Summoning of witnesses and administration of oaths

15.—(1) A chairman, or in the case of an appeal tribunal which has only one member, that member, may by summons, or in Scotland, by citation, require any person in Great Britain to attend as a witness at a hearing of an appeal, an application for a direction or penalty proceedings, at such time and place as shall be specified in the summons or citation and, subject to paragraph (2), at the hearing to answer any question or produce any documents in his custody or under his control which relate to any matter in question in that appeal, application or those proceedings but—

- (a) no person shall be required to attend in obedience to such summons or citation unless he has been given at least 14 days' notice of the hearing or, if less than 14 days' notice is given, he has informed the tribunal that the notice given is sufficient; and
 - (b) no person shall be required to attend and give evidence or to produce any document in obedience to such summons or citation unless the necessary expenses of attendance are paid or tendered to him.
- (2) No person shall be compelled to give any evidence or produce any document or other material that he could not be compelled to give or produce on a trial of an action in a court of law in that part of Great Britain where the hearing takes place.
- (3) In exercising the powers conferred by this regulation, the chairman, or in the case of an appeal tribunal which has only one member, that member, shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, consists of information communicated or obtained in confidence or concerns national security.
- (4) Every summons or citation issued under this regulation shall contain a statement to the effect that the person in question may apply in writing to a chairman to vary or set aside the summons or citation.
- (5) A chairman, or in the case of an appeal tribunal which has only one member, that member, may require any witness, including a witness summoned under the powers conferred by this regulation, to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.