

2002/2926

# Tax Credits (Appeals) Regulations 2002

Made by the Commissioners of Inland Revenue under TCA 2002 ss 63(8), 65(2), (6)

*Made 26 November 2002*

*Laid before Parliament 26 November 2002*

*Coming into force 17 December 2002*

## [MAIN

### 1 Citation, commencement and duration

(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).

### 2 Interpretation

In these Regulations—

“appeal tribunal” means an appeal tribunal constituted—

- (a) ...1
- (b) 1 in Northern Ireland, under Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998 (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 or a tribunal of two or more Commissioners 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.

## Amendments—

- 1 In definitions of “appeal tribunal” and “Social Security Commissioner”, sub-para (a) revoked, and in sub-para (b) letter “(b)” revoked, by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 192 with effect from 3 November 2008.

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

(1) Section 54 of the Taxes Management Act 1970 (settling of appeals by agreement) shall apply

to a tax credit appeal to an appeal tribunal [or the First-tier Tribunal]<sup>1</sup> with the modifications prescribed by paragraphs (2) to (8).

(2) In subsection (1) for “[tribunal]”, in both places where that word occurs, substitute the words “appeal tribunal [or the First-tier 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—

*[ISOB*

“(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 made shall be construed as references to the date of that notice.”.

*[ISOE*

(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—

*[ISOB*

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

(a) ...1

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

*[ISOE*

#### **Amendments—**

1 In paras (1), (2), words inserted, and in para (8), in inserted sub-s (6), sub-para (a) revoked, and in sub-para (b) letter “(b)” revoked, by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 193 with effect from 3 November 2008.

2 In para (2), word substituted by the Transfer of Tribunal Functions and Revenue and Customs Appeals Order, SI 2009/56 art 3, Sch 2 paras 80, 81 with effect from 1 April 2009.

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

(1) Section 12 of the 1998 Act and Article 13 of the 1998 Order (appeals to an appeal tribunal [or the First-tier Tribunal]<sup>1</sup>) shall apply to a tax credit appeal to an appeal tribunal [or the First-tier Tribunal]<sup>1</sup> with the modifications prescribed by paragraphs (2) to (8).

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

*[ISOB*

“(1) An appeal which is to [the First-tier Tribunal]<sup>1</sup> 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
- (d) such other person as may be prescribed.”.

*[ISOE*

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

*[ISOB*

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

*[ISOE*

(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.

## **Amendments—**

<sup>1</sup> In para (1), words inserted, and in para (2), words substituted for words “an appeal tribunal”, by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 194 with effect from 3 November 2008.

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

(1) Section 13 of the 1998 Act and Article 14 of the 1998 Order (redetermination etc. of appeals by tribunal) shall apply to a decision of an appeal tribunal [or the First-tier Tribunal]<sup>1</sup> 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—

[ISOB

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

[ISOE

### **Amendments—**

1 In para (1), words inserted by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 195 with effect from 3 November 2008.

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

(1) Section [14(2) to (6)]<sup>1</sup> of the 1998 Act and Article 15(1) to (10) of the 1998 Order (appeal from tribunal to Commissioner) shall apply to a decision of an appeal tribunal [or the First-tier Tribunal]<sup>1</sup> 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) ...<sup>1</sup>

(b) in subsection (3)(a) for “Secretary of State” substitute “Board”;

(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).

### **Amendments—**

1 In para (1), words substituted and inserted, and para (2)(a) revoked, by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 196 with effect from 3 November 2008.

### **7—**

(1) ...<sup>2</sup> 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, ...<sup>2</sup> paragraph (11) of that Article omit the words “and applications made for leave to appeal”.

(3) ...<sup>1</sup>

### **Amendments—**

1 Para (3) revoked by the Tax Credits (Appeals) (Amendment) Regulations, SI 2004/372 with effect from 16 March 2004.

- 2 In pars (1), (2), words revoked by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 197 with effect from 3 November 2008.

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

Section 15 of the 1998 Act ([applications for permission to appeal against a decision of the Upper Tribunal]<sup>1</sup>) shall apply to a decision of [the Upper Tribunal]<sup>1</sup> on a tax credit appeal.

### **Amendments—**

- 1 Words substituted by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 198 with effect from 3 November 2008.

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

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

[(2) Omit subsection (3) of section 16.]<sup>1</sup>

(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 of 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”.

### **Amendments—**

- 1 Para (2) substituted by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 199 with effect from 3 November 2008.

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

(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 [the First-tier Tribunal, the Upper Tribunal]<sup>1</sup> 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—

*[ISOB*

“(1) Subject to the provisions of—

(a) sections 12 to 16 of this Act, and

(b) the Tax Credits Act 2002,

[(c) any provision made by or under Chapter 2 of Part 1 of the Tribunals, Courts and Enforcement Act 2007,]<sup>1</sup>

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 [the First-tier Tribunal or lies to the Upper Tribunal]<sup>1</sup>, shall be final.”.

*[ISOE*

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

*[ISOB*

“(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.”.

*[ISOE*

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

### **Amendments—**

- <sup>1</sup> In para (1), words inserted, in para (2), words inserted and words substituted, by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 200 with effect from 3 November 2008.

## **11 Application of ... and Article 28 of the 1998 Order**

(1) ...1 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) ...1

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

*[ISOB*

“(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.”.

*[ISOE*

(4) Omit ...1 paragraph (1A) of that Article.

### **Amendments—**

- <sup>1</sup> In heading and paras (1), (4), words revoked, and para (2) revoked, by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 201 with effect from 3 November 2008.

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

(1) Section 39 of the 1998 Act and Article 39 of the 1998 Order (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) [in the appropriate place]1 insert—

*[ISOB*

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

*[ISOE*

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

*[ISOB*

“ “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;”;

*[ISOE*

[(c) omit the definition of “relevant benefit”]2

(3) In paragraph (1) of that Article—

(a) for the definition of “Inland Revenue” substitute—

*[ISOB*

“ “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;”;

*[ISOE*

[(b) omit the definition of “relevant benefit”]2

(4) Omit subsections (2) and (3) of that section and paragraphs (2) and (3) of that Article.

### **Amendments—**

- 1 In para (2)(a), words substituted by the Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order, SI 2008/2683 art 6(1), Sch 1 paras 191, 202 with effect from 3 November 2008.
- 2 Paras (2)(c), (3)(b) substituted by the Transfer of Tribunal Functions and Revenue and Customs Appeals Order, SI 2009/56 art 3, Sch 2 paras 80, 82 with effect from 1 April 2009.