
STATUTORY INSTRUMENTS

1999 No. 2588

**SOCIAL SECURITY, NORTHERN IRELAND
TAXES, NORTHERN IRELAND**

**The Tax Credits (Decisions and Appeals)
(Northern Ireland) (Amendment) Regulations 1999**

<i>Made</i>	- - - -	<i>14th September 1999</i>
<i>Laid before Parliament</i>		<i>14th September 1999</i>
<i>Coming into force</i>	- -	<i>5th October 1999</i>

The Commissioners of Inland Revenue, in exercise of the powers set out in the Schedule to this instrument, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Tax Credits (Decisions and Appeals) (Northern Ireland) (Amendment) Regulations and shall come into force on 5th October 1999 immediately after the coming into force of section 2(1)(c) of the Tax Credits Act 1999(1).

(2) These Regulations have effect—

- (a) with respect only to tax credit, and
- (b) with respect to award periods of tax credit commencing on or after 5th October 1999.

Interpretation

2. In these Regulations unless the context otherwise requires—

“the principal Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(2) and “regulation” means a regulation of the principal Regulations;

“tax credit” means working families' tax credit or disabled person's tax credit, construing those terms in accordance with section 1(1) of the Tax Credits Act 1999.

(1) 1999 c. 10.

(2) S.R. 1999 No. 162, amended by S.R. 1999 Nos.242, 267, 271 (C. 22) and 276.

Amendments to the principal Regulations

3. In regulation 1(1)(d) for the words “family credit and disability working allowance” there shall be substituted the words “working families' tax credit and disabled person's tax credit”.

4. In regulation 1(2)—

- (a) in paragraph (a) of the definition of “the date of notification” after the word “Department” there shall be inserted the words “or an officer of the Board”;
- (b) in the definition of “party to the proceedings” after the word “Department” there shall be inserted the words “or, as the case may be, the Board or an officer of the Board”;
- (c) after the definition of “referral” there shall be inserted the following definition—
 - ““tax credit” means working families' tax credit or disabled person's tax credit, construing those terms in accordance with section 1(1) of the Tax Credits Act 1999;”.

5. In regulation 2—

- (a) in paragraph (a)—
 - (i) after the word “Department”, where that word first occurs, there shall be inserted the words “or to an officer of the Board”;
 - (ii) after the word “Department”, where that word secondly occurs, there shall be inserted the words “or by an officer of the Board”;
- (b) in paragraph (b)—
 - (i) after the word “Department”, where that word first occurs, there shall be inserted the words “or of an officer of the Board”;
 - (ii) after the word “Department”, where that word secondly occurs, there shall be inserted the words “or an officer of the Board”.

6.—(1) Regulation 3 shall be amended as follows.

(2) In paragraphs (1), (2) and (7) to (9), after the word “Department”, wherever occurring, there shall be inserted the words “or the Board or an officer of the Board”.

(3) In paragraphs (1) and (2) after the word “it” wherever occurring there shall be inserted the words “, or he or they,”.

(4) In paragraph (5)(3)—

- (a) for the word “Department”, in the first place where it occurs, there shall be substituted the words “Board or an officer of the Board”;
- (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
 - “(b) which was made in ignorance of, or was based on a mistake as to, some material fact;”;
- (c) the word “or” immediately following sub-paragraph (b) shall be omitted;
- (d) sub-paragraph (c) shall be omitted;
- (e) for the words “at any time by the Department” there shall be substituted the words “by the Board or an officer of the Board at any time not later than the end of the period of six years immediately following the date of the decision or, where ignorance of the material fact referred to in sub-paragraph (b) was caused by the fraudulent or negligent conduct of the claimant, not later than the end of the period of twenty years immediately following the date of the decision.”

(3) Paragraph (5) of regulation 3 was amended by regulation 2(3) of S.R. 1999 No. 267.

(5) In paragraph (10) after the word “Department” there shall be inserted the words “or the Board”.

(6) In paragraph (11)(4) after sub-paragraph (d) there shall be added
“or

(e) in the case of a person who has claimed working families' tax credit or disabled person's tax credit, a Tax Credits Office, the address of which is indicated on the notification of the original decision.”

7. In regulation 4(4) and (5) after the word “Department” there shall be inserted the words “or the Board or an officer of the Board”.

8. In regulation 5 after the word “Department” there shall be inserted the words “or the Board or an officer of the Board”.

9.—(1) Regulation 6 shall be amended as follows.

(2) In paragraph (2)(5)—

(a) after the word “Department's” there shall be inserted the words “or the Board's”;

(b) in sub-paragraph (b)—

(i) after the word “Department”, in the first place where it occurs, there shall be inserted the words “or the Board or an officer of the Board”;

(ii) after the word “Department” in paragraph (ii) there shall be inserted, in each place where it occurs, the words “or the Board”;

(iii) after the word “its” in paragraph (ii) there shall be inserted the words “or their”;

(c) in sub-paragraph (e) after the word “Department” there shall be inserted the words “or the Board or an officer of the Board”.

(3) In paragraph (3) after the word “Department” there shall be inserted the words “or the Board or an officer of the Board”.

(4) In paragraph (4)—

(a) after the words “Department requires” there shall be inserted the words “or the Board require”;

(b) after the words “the Department” in the second place where they occur, there shall be inserted the words “or the Board”;

(c) in sub-paragraph (a) after the word “Department” there shall be inserted the words “or the Board”.

(5) In paragraph (5) after the word “Department” there shall be inserted the words “or the Board”.

10. In regulation 7(5) after the words “Department supersedes” there shall be inserted the words “or the Board supersede”.

11. In regulation 8—

(a) in paragraph (4) after the words “Department is satisfied” there shall be inserted the words “or the Board are satisfied”;

(b) in paragraph (5) after the word “Department” there shall be inserted the words “or the Board”.

12.—(1) Regulation 16 shall be amended as follows.

(4) Paragraph (11) of regulation 3 was amended by article 3(3)(b) of S.R. 1999 No. 271 (C. 22).

(5) Paragraph (2) of regulation 6 was amended by regulation 2(4) of S.R. 1999 No. 267.

- (2) In paragraph (1) after the word “Department” there shall be inserted the words “or the Board”.
 - (3) In paragraph (3)—
 - (a) in sub-paragraph (a)—
 - (i) after the word “Department” there shall be inserted the words “or the Board”;
 - (ii) in paragraph (iv) after the word “it” there shall be inserted the words “or them”;
 - (b) in sub-paragraph (b) after the word “Department” there shall be inserted the words “or the Board”.
 - (4) In paragraph (4)—
 - (a) after the words “Department certifies” there shall be inserted the words “or the Board certify”;
 - (b) after the words “it proposes” there shall be inserted the words “or they propose”.
13. For regulations 17 and 18 there shall be substituted the following regulations—

“Provision of information or evidence

17.—(1) This regulation applies where the Board require information or evidence for a determination whether a decision awarding tax credit should be—

- (a) revised under Article 10; or
- (b) superseded under Article 11.

(2) The relevant person shall furnish such certificates, documents, information and evidence as may be required by the Board for the purposes of paragraph (1), and shall do so within one month of being required to do so or such longer period as the Board may consider reasonable.

(3) In paragraph (2) “the relevant person” means any of the following—

- (a) the claimant concerned;
- (b) where the tax credit could have been claimed by either of two partners or where entitlement to or the amount of the tax credit was affected or liable to be affected by the circumstances of either partner, the partner other than the claimant;
- (c) the employer of the claimant or, where sub-paragraph (b) applies, the employer of the partner other than the claimant.

(4) Where the claimant or any partner of the claimant is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, the claimant shall, where the Board so require and within one month of being required to do so or such longer period as the Board may consider reasonable, furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information, including any reference number or policy number, as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(5) A pension fund holder to whom paragraph (4) applies shall, where the Board so require and within one month of being required to do so or such longer period as the Board may consider reasonable, provide the Board with the information specified in paragraph (6).

(6) The information referred to in this paragraph is—

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
- (b) in the case of—
 - (i) a personal pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme; or
 - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the maximum amount of income which might be withdrawn from the fund if the fund were held under a personal pension scheme where income withdrawal was available,calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

(7) Every person providing childcare in respect of which a claimant to whom regulation 46A of the Family Credit (General) Regulations (Northern Ireland) 1987⁽⁶⁾ applies is incurring relevant childcare charges (within the meaning in that regulation), including a person providing childcare on behalf of a school, establishment, childcare scheme, education and library board or HSS trust within paragraph (2)(aa) to (c) of that regulation, shall furnish such certificates, documents, information and evidence as may be required by the Board for the purposes of paragraph (1), and shall do so within one month of being required to do so or such longer period as the Board may consider reasonable.

Suspension and termination in cases of failure to furnish information or evidence

18.—(1) Where a claimant—

- (a) is required by the Board under regulation 17 to furnish information or evidence, and
- (b) fails to do so within the period specified by the Board in accordance with that regulation (“the suspension period”),

the Board may, subject to paragraphs (3) and (4), decide to suspend payment of tax credit to or on behalf of the claimant in whole or in part.

(2) Where either—

- (a) a claimant whose benefit has been suspended in whole or in part in accordance with regulation 16 subsequently fails to comply with a requirement for information or evidence made under regulation 17, within the suspension period, or within a period of one month immediately following the suspension period; or
- (b)
 - (i) a claimant has been required by the Board under regulation 17 to furnish information or evidence,
 - (ii) the claimant has failed to do so within the suspension period and within the period of one month immediately following the suspension period, and
 - (iii) the Board have suspended payment of tax credit to or on behalf of the claimant in whole or in part in accordance with paragraph (1) of this regulation,

the Board may, subject to paragraphs (3) to (5), decide that the claimant shall cease to be entitled to payment of tax credit with effect from a date not earlier than the date on which payment of tax credit was suspended.

⁽⁶⁾ S.R. 1987 No. 463; the regulation 13A inserted in S.R. 1987 No. 463 by S.R. 1994 No. 274 and amended by S.R. 1995 No. 86, 1996 No. 476, 1997 No. 515 and 1998 No. 2 was renumbered 46A and further amended by S.I. 1999/2488.

- (3) No decision shall be taken by the Board pursuant to paragraph (1) or (2) where—
 - (a) the failure to furnish information has been remedied; or
 - (b) the Board have allowed a further period of time (in addition to the suspension period or the period of one month referred to in paragraph (2)(a) or (b)(ii)) within which the claimant is required to furnish the information and the claimant has furnished the information within that further period.

(4) For the purposes of paragraphs (1) and (2), a claimant shall be deemed not to have failed to furnish information within the suspension period or within the period of one month referred to in paragraph (2)(a) or (b)(ii) if he had a reasonable excuse and that excuse has not ceased; and, where that excuse has ceased, he shall be deemed not to have failed to furnish information within either of those periods for those purposes if he furnished the information without unreasonable delay after the excuse had ceased.

(5) No decision shall be taken by the Board pursuant to paragraph (2) unless payment of the whole of the relevant tax credit to or on behalf of the claimant has been suspended, under regulation 16 or 17 or both of those regulations.”

14.—(1) Regulation 19 shall be amended as follows.

(2) In paragraph (1)—

- (a) after the word “Department”, where that word first occurs, there shall be inserted the words “or the Board”;
- (b) in sub-paragraph (a)—
 - (i) after the words “Department considers” there shall be inserted the words “or the Board consider”;
 - (ii) after the word “itself” there shall be inserted the words “or themselves”;
- (c) in sub-paragraph (b)—
 - (i) after the words “Department considers” there shall be inserted the words “or the Board consider”;
 - (ii) after the word “its” there shall be inserted the words “or their”.

(3) In paragraphs (2) and (3) after the word “Department” there shall be inserted the words “or the Board”.

15.—(1) Regulation 20 shall be amended as follows.

(2) In paragraphs (1)(a) and (b) and (4) after the words “Department is satisfied” there shall be inserted the words “or the Board are satisfied”.

(3) In paragraph (1)(b) after the words “it has” there shall be inserted the words “or they have”.

(4) For paragraph (1)(d)(7) there shall be substituted—

- “(d) in a case to which regulation 18(1) applies, the Board are satisfied that the benefit suspended is properly payable and the requirements of regulation 17(2), (4), (5) or (7) have been satisfied.”

(5) In paragraph (2)—

- (a) after the words “the Department” there shall be inserted the words “or the Board”;
- (b) after the words “it has not” there shall be inserted the words “, or the Board have not,”;
- (c) after the words “that it has” there shall be inserted the words “, or they have,”.

(6) In paragraph (3)—

(7) Paragraph (1)(d) of regulation 20 was inserted by regulation 2(7)(b) of S.R. 1999 No. 267.

- (a) after the words “Department fails” there shall be inserted the words “or the Board fail”;
- (b) after the words “it receives” there shall be inserted the words “or the Board receive”.

16.—(1) Regulation 21 shall be amended as follows.

(2) In paragraph (3) after the word “Department” there shall be inserted the words “or the Board”.

(3) In paragraph (4)—

- (a) after the words “the Department” there shall be inserted the words “or the Board”;
- (b) in sub-paragraph (a) after the words “certifies in writing that it is” there shall be inserted the words “, or certify in writing that they are,”;
- (c) in sub-paragraph (b) after the word “considers” there shall be inserted the words “, or consider,”;

17. In regulation 22—

- (a) after the word “Department” there shall be inserted the words “or the Board”;
- (b) in paragraph (a) after the words “certifies in writing that it is” there shall be inserted the words “, or certify in writing that they are,”;
- (c) in paragraph (b) after the word “considers” there shall be inserted the words “, or consider,”.

18. In regulation 26 after the word “Department” there shall be inserted the words “or an officer of the Board”.

19. In regulation 28 after the word “Department”, in each place where it occurs, there shall be inserted the words “or the Board or an officer of the Board”.

20. In regulation 30—

- (a) in paragraphs (1) and (5) after the word “Department” there shall be inserted the words “or the Board or an officer of the Board”;
- (b) in paragraph (5) after the words “revises its” there shall be inserted the words “, or revise their,”.

21.—(1) Regulation 31 shall be amended as follows.

(2) In paragraphs (1) to (3) after the word “Department”, wherever that word occurs, there shall be inserted the words “or the Board or an officer of the Board”.

(3) In paragraph (2) after the words “it is” there shall be inserted the words “or they are”.

22.—(1) Regulation 33 shall be amended as follows.

(2) In paragraph (1)—

- (a) after the word “Department” there shall be inserted the words “or the Board”;
- (b) after the words “it accepts” there shall be inserted the words “or the Board accept”;
- (c) after paragraph (ii) of sub-paragraph (b)(8) there shall be inserted the following paragraph—

“(iia) in the case of an appeal against a decision relating to working families' tax credit or disabled person's tax credit, a Tax Credits Office of the Board, and.”

(3) In paragraphs (2) and (4) to (8) after the word “Department” wherever it occurs there shall be inserted the words “or the Board”.

(8) Sub-paragraph (b) of regulation 33(1) was substituted by Article 3(4) of [S.R. 1999 No. 271 \(C. 22\)](#).

- (4) In paragraph (3)—
- (a) after the words “Department is satisfied” there shall be inserted the words “or the Board are satisfied”;
 - (b) after the word “it” in the second place where it occurs there shall be inserted the words “or they”.
- (5) In paragraph (6) after the word “Department's”, in both places where it occurs, there shall be inserted the words “or the Board's”.
- 23.** In regulation 34—
- (a) in paragraphs (1) and (3), after the word “Department” there shall be inserted the words “or the Board”;
 - (b) in paragraph (1) after the words “it thinks” there shall be inserted the words “or they think”.
- 24.** In regulation 40(1) after the word “Department” there shall be inserted the words “, the Board or an officer of the Board, as the case may be,”.
- 25.** In regulation 41(a)(iv) for the words “disability working allowance” there shall be substituted the words “disabled person’s tax credit”.
- 26.** In regulation 58(2) after the word “Department” there shall be inserted the words “or the Board”.

14th September 1999

G H Bush
Tim Flesher
Two of the Commissioners of Inland Revenue

THE SCHEDULE

Provisions conferring powers exercised in making these Regulations

Social Security Administration (Northern Ireland) Act 1992 ⁽⁹⁾	Section 5(1)(hh).
Social Security (Northern Ireland) Order 1998	Article 10(1), (4) and (6) Article 11(3) and (6) Article 12(1) Article 13(6) and (7) Article 15(10)(a) and (11) Article 16(1) and Schedule 4 Articles 20 to 24 Article 25(3)(b) and (5)(c) Article 26(6)(c) Article 74(3) to (6) Schedule 3 paragraph 9.
Tax Credits Act 1999 ⁽¹⁰⁾	Section 2(1)(c) Section 19(1) Schedule 1 paragraph 5(a) Schedule 2 paragraphs 7(d), 8(b), 31 and 36.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 162) (“the principal Regulations”) in consequence of the transfer under the Tax Credits Act 1999 (c. 10) of functions relating to family credit and disability working allowance from the Department of Health and Social Services for Northern Ireland to the Treasury and the Inland Revenue on 5th October 1999. Family credit and disability working allowance are to become known as working families' tax credit and disabled person's tax credit respectively as from 5th October 1999.

The Regulations also substitute regulations in the principal Regulations relating to the furnishing of information to enable the Board of Inland Revenue to determine whether a decision awarding

⁽⁹⁾ 1992 c. 8; section 5(1) was amended by Article 70 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)).

⁽¹⁰⁾ 1999 c. 10.

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working families' tax credit or disabled person's tax credit should be revised under Article 10 of the Social Security (Northern Ireland) Order 1998 (S.I.1998/1506 (N.I. 10)) or superseded under Article 11 of that Order.

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

Regulations 3 to 26 amend the principal Regulations and, in particular, regulation 13 substitutes new regulations 17 and 18 of the principal Regulations relating to the furnishing of information to determine whether an award of working families' tax credit or disabled person's tax credit should be revised or superseded, with provision for suspension or termination of any such award in the event of failure to furnish the required information.