

## STATUTORY INSTRUMENTS

# 1999 No. 991

## The Social Security and Child Support (Decisions and Appeals) Regulations 1999

### <sup>F1</sup> PART III

#### SUSPENSION, TERMINATION AND OTHER MATTERS

**F1** Pts. II III IV revoked (7.4.2003 for specified purposes and with effect in accordance with reg. 1(2)) by [The Child Benefit and Guardian s Allowance \(Decisions and Appeals\) Regulations 2003 \(S.I. 2003/916\)](#) , regs. 1(1) , **34(a)** (with reg. 35 )

#### CHAPTER I

#### SUSPENSION AND TERMINATION

##### **Modifications etc. (not altering text)**

**C1** Pt. 3 Ch. 1 applied (5.10.1999) by [The Social Security Act 1998 \(Commencement No. 10 and Transitional Provisions\) Order 1999 \(S.I. 1999/2739\)](#), art. 3, **Sch. 2 para. 13**

#### **Suspension in prescribed cases**

**16.**—(1) Subject to paragraph (2), the Secretary of State [<sup>F2</sup>or the Board] may suspend payment of a relevant benefit, in whole or in part, in the circumstances prescribed in paragraph (3).

(2) The Secretary of State shall suspend payment of a jobseeker's allowance in the circumstances prescribed in paragraph (3)(a)(i) or (ii) where the issue or one of the issues is whether a person, who has claimed a jobseeker's allowance, is or was available for employment or whether he is or was actively seeking employment.

(3) The prescribed circumstances are that—

(a) it appears to the Secretary of State [<sup>F3</sup>or the Board] that—

- (i) an issue arises whether the conditions for entitlement to a relevant benefit are or were fulfilled;
- (ii) an issue arises whether a decision as to an award of a relevant benefit should be revised under section 9 or superseded under section 10;
- (iii) an issue arises whether any amount paid or payable to a person by way of, or in connection with a claim for, a relevant benefit is recoverable under section 71 (overpayments), 71A (recovery of jobseeker's allowance: severe hardship cases <sup>M1</sup>) or 74 (income support and other payments) of the Administration Act or regulations made under any of those sections; or

- (iv) the last address notified to him [<sup>F4</sup>or them] of a person who is in receipt of a relevant benefit is not the address at which that person is residing; or
- (b) an appeal is pending against—
- (i) a decision of [<sup>F5</sup>the First-tier Tribunal, the Upper Tribunal] or a court;
  - (ii) a decision given in a different case by [<sup>F6</sup>the Upper Tribunal] or a court, and it appears to the Secretary of State [<sup>F7</sup>or the Board] that, if the appeal were to be determined in a particular way, an issue would arise as to whether the award of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.
- [<sup>F8</sup>(4) For the purposes of section 21(3)(c) an appeal is pending where a decision of [<sup>F9</sup>the First-tier Tribunal, the Upper Tribunal] or a court has been made and the Secretary of State—
- (a) is awaiting receipt of that decision or (in the case of [<sup>F10</sup>a decision of the First-tier Tribunal]) is considering whether to apply for a statement of the reasons for it, or has applied for such a statement and is awaiting receipt thereof; or
  - (b) has received that decision or (in the case of [<sup>F11</sup>a decision of the First-tier Tribunal]) the statement of the reasons for it, and is considering whether to apply for [<sup>F12</sup>permission] to appeal, or, where leave to appeal has been granted, is considering whether to appeal;
- and the Secretary of State shall give written notice of his proposal to make a request for a statement of the reasons for a tribunal decision, to apply for [<sup>F12</sup>permission] to appeal, or to appeal, as soon as reasonably practicable.]

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| <b>F2</b>  | Words in reg. 16(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>12(2)</b>               |
| <b>F3</b>  | Words in reg. 16(3)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>12(3)(a)(i)</b>      |
| <b>F4</b>  | Words in reg. 16(3)(a)(iv) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>12(3)(a)(ii)</b> |
| <b>F5</b>  | Words in reg. 16(3)(b)(i) substituted (3.11.2008) by <a href="#">Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683)</a> , art. 1 , <b>Sch. 1 para. 109(2)(a)</b>             |
| <b>F6</b>  | Words in reg. 16(3)(b)(ii) substituted (3.11.2008) by <a href="#">Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683)</a> , art. 1 , <b>Sch. 1 para. 109(2)(b)</b>            |
| <b>F7</b>  | Words in reg. 16(3)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>12(3)(b)</b>         |
| <b>F8</b>  | Reg. 16(4) substituted (19.6.2000) by <a href="#">The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596)</a> , regs. 1(1) , <b>20</b>  |
| <b>F9</b>  | Words in reg. 16(4) substituted (3.11.2008) by <a href="#">Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683)</a> , art. 1 , <b>Sch. 1 para. 109(3)(a)</b>                   |
| <b>F10</b> | Words in reg. 16(4)(a) substituted (3.11.2008) by <a href="#">Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683)</a> , art. 1 , <b>Sch. 1 para. 109(3)(b)</b>                |
| <b>F11</b> | Words in reg. 16(4)(b) substituted (3.11.2008) by <a href="#">Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683)</a> , art. 1 , <b>Sch. 1 para. 109(3)(c)(i)</b>             |

**F12** Word in reg. 16(4)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , Sch. 1 para. 109(3)(c)(ii)

**Marginal Citations**

**M1** Section 71A was inserted by section 18 of the Jobseekers Act 1995 (c.18) .

**Provision of information or evidence**

17.—<sup>F13</sup>(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 section 9; or
- (b) superseded under section 10.

(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 1987 applies is incurring relevant childcare charges (within the meaning of that regulation), including a person providing childcare on behalf of a school, local authority, childcare scheme or establishment within paragraph (2)(b), (c) or (d) 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.]

- F13** Regs. 17 18 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **13**
- F14** Reg. 17(2)(c)(ca) substituted for reg. 17(2)(c) (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(a)**
- F15** Reg. 17(2)(f) added (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#) , regs. 1(2)(a) , **40**
- F16** Reg. 17(4)(a)(i) substituted (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(b)**
- F17** Words in reg. 17(4)(b) substituted (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(c)**
- F18** Reg. 17(4A) inserted (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(d)**
- F19** Word in reg. 17(5) substituted (28.6.2010) by [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2010 \(S.I. 2010/840\)](#), regs. 1, **7(6)**

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**Marginal Citations**

- M2** Schedule 1B was inserted by [S.I. 1996/206](#) .
- M3** [S.I. 1976/615](#) ; relevant amending instruments are [S.I. 1982/699](#) , 1992/247 and 1994/2975.

**Termination in cases of failure to furnish information or evidence**

**18.**—<sup>F13</sup>(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 the 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.

- (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.]

**F13** Regs. 17 18 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **13**

### **Suspension and termination for failure to submit to medical examination**

**19.**—(1) Except where regulation 8 of the Social Security (Incapacity for Work) (General) Regulations 1995 <sup>M4F20</sup>... (where a question arises as to whether a person is capable of work) [<sup>F21</sup>or regulation 23 of the Employment and Support Allowance Regulations (where a question arises whether a person has limited capability for work) applies], the Secretary of State [<sup>F22</sup>or the Board] may require a person to submit to a medical examination by a [<sup>F23</sup>health care professional approved by the Secretary of State] where that person is in receipt of a relevant benefit, and either—

- (a) the Secretary of State considers [<sup>F24</sup>or the Board consider] it necessary to satisfy himself [<sup>F25</sup>or themselves] as to the correctness of the award of the benefit, or of the rate at which it was awarded; or
- (b) that person applies for a revision or supersession of the award and the Secretary of State considers [<sup>F26</sup>or the Board consider] that the examination is necessary for the purpose of making his [<sup>F27</sup>or their] decision.

(2) The Secretary of State [<sup>F28</sup>or the Board] may suspend payment of a relevant benefit in whole or in part, to a person who fails, without good cause, on two consecutive occasions to submit to a medical examination in accordance with requirements under paragraph (1) except where entitlement to benefit is suspended on an earlier date other than under this regulation.

(3) Subject to paragraph (4), the Secretary of State [<sup>F28</sup>or the Board] may determine that the entitlement to a relevant benefit of a person, in respect of whom payment of such a benefit has been suspended under paragraph (2), shall cease from a date not earlier than the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(4) Paragraph (3) shall not apply where not more than one month has elapsed since the first payment was suspended under paragraph (2).

<b>F20</b>	Word in reg. 19(1) omitted (27.7.2008) by virtue of <a href="#">Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554)</a> , regs. 1(2)(a) , <b>41(a)</b>
<b>F21</b>	Words in reg. 19(1) inserted (27.7.2008) by <a href="#">Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554)</a> , regs. 1(2)(a) , <b>41(b)</b>
<b>F22</b>	Words in reg. 19(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>14(2)(a)</b>
<b>F23</b>	Words in reg. 19(1) substituted (3.7.2007) by <a href="#">Social Security (Miscellaneous Amendments) (No.2) Regulations 2007 (S.I. 2007/1626)</a> , regs. 1 , <b>4(3)</b>
<b>F24</b>	Words in reg. 19(1)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>14(2)(b)(i)</b>
<b>F25</b>	Words in reg. 19(1)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>14(2)(b)(ii)</b>
<b>F26</b>	Words in reg. 19(1)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>14(2)(c)(i)</b>
<b>F27</b>	Words in reg. 19(1)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>14(2)(c)(ii)</b>
<b>F28</b>	Words in reg. 19(2) (3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by <a href="#">The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570)</a> , regs. 1 , <b>14(3)</b>
<b>Marginal Citations</b>	
<b>M4</b>	<a href="#">S.I. 1995/311</a> .

**Making of payments which have been suspended**

**20.**—(1) Subject to paragraphs (2) and (3), payment of a benefit suspended in accordance with regulation 16 [<sup>F29</sup>or 17] shall be made where—

- (a) in a case to which regulation 16(2) or (3)(a)(i) to (iii) applies, the Secretary of State is satisfied [<sup>F30</sup>or the Board are satisfied] that the benefit suspended is properly payable and no outstanding issues remain to be resolved;
- (b) in a case to which regulation 16(3)(a)(iv) applies, the Secretary of State is satisfied [<sup>F30</sup>or the Board are satisfied] that he has [<sup>F31</sup>or they have] been notified of the address at which the person is residing;

<sup>F32</sup>( c ) . . . . .

[<sup>F33</sup>(d)

[<sup>F35</sup>(2) Where regulation 16(3)(b)(i) applies, payment of a benefit suspended shall be made if the Secretary of State—

- (a) does not, in the case of a decision of [<sup>F36</sup>the First-tier Tribunal], apply for a statement of the reasons for that decision within the period [<sup>F37</sup>specified under Tribunal Procedure Rules];
- (b) does not, in the case of a decision of [<sup>F38</sup>the First-tier Tribunal, the Upper Tribunal] or a court, make an application for [<sup>F39</sup>permission] to appeal and (where [<sup>F39</sup>permission] to appeal is granted) make the appeal within the time prescribed for the making of such applications and appeals;
- (c) withdraws an application for [<sup>F40</sup>permission] to appeal or the appeal; or

- (d) is refused [<sup>F40</sup>permission] to appeal, in circumstances where it is not open to him to renew the application for [<sup>F40</sup>permission] or to make a further application for [<sup>F40</sup>permission] to appeal.
- (3) Where regulation 16(3)(b)(ii) applies, payment of a benefit suspended shall be made if the Secretary of State, in relation to the decision of [<sup>F41</sup>the Upper Tribunal] or the court in a different case—
- (a) does not make an application for [<sup>F42</sup>permission] to appeal and (where [<sup>F42</sup>permission] to appeal is granted) make the appeal within the time prescribed for the making of such applications and appeals;
- (b) withdraws an application for [<sup>F42</sup>permission] to appeal or the appeal; or
- (c) is refused [<sup>F42</sup>permission] to appeal, in circumstances where it is not open to him to renew the application for [<sup>F42</sup>permission] or to make a further application for [<sup>F42</sup>permission] to appeal.]
- (4) Payment of benefit which has been suspended in accordance with regulation 19 for failure to submit to a medical examination shall be made where the Secretary of State is satisfied [<sup>F43</sup>or the Board are satisfied] that it is no longer necessary for the person referred to in that regulation to submit to a medical examination.

- F29** Words in reg. 20(1) inserted (5.7.1999) by The Social Security and Child Support (Decisions and Appeals) Amendment (No. 2) Regulations 1999 (S.I. 1999/1623) , regs. 1(1) , **6**
- F30** Words in reg. 20(1)(a)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **15(2)**
- F31** Words in reg. 20(1)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **15(3)**
- F32** Reg. 20(1)(c) omitted (19.6.2000) by virtue of The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596) , regs. 1(1) , **21(a)**
- F33** Reg. 20(1)(d) inserted (5.7.1999) by The Social Security and Child Support (Decisions and Appeals) Amendment (No. 2) Regulations 1999 (S.I. 1999/1623) , regs. 1(1) , **6**
- F34** Reg. 20(1)(d) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **15(4)**
- F35** Reg. 20(2)(3) substituted (19.6.2000) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596) , regs. 1(1) , **21(b)**
- F36** Words in reg. 20(2)(a) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(a)(i)**
- F37** Words in reg. 20(2)(a) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(a)(ii)**
- F38** Words in reg. 20(2)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(b)(i)**
- F39** Words in reg. 20(2)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(b)(ii)**
- F40** Words in reg. 20(2)(c)(d) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(c)**

- F41** Words in reg. 20(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(3)(a)**
- F42** Words in reg. 20(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(3)(b)**
- F43** Words in reg. 20(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **15(2)**

## CHAPTER II

### OTHER MATTERS

#### Decisions involving issues that arise on appeal in other cases

**21.—(1)** For the purposes of section 25(3)(b) (prescribed cases and circumstances in which a decision may be made on a prescribed basis) a case which satisfies the condition in paragraph (2) is a prescribed case.

(2) The condition is that the claimant would be entitled to the benefit to which the decision which falls to be made relates, even if the appeal in the other case referred to in section 25(1)(b) were decided in a way which is the most unfavourable to him.

(3) For the purposes of section 25(3)(b), the prescribed basis on which the Secretary of State [<sup>F44</sup>or the Board] may make the decision is as if—

- (a) the appeal in the other case which is referred to in section 25(1)(b) had already been determined; and
- (b) that appeal had been decided in a way which is the most unfavourable to the claimant.

(4) The circumstance prescribed under section 25(5)(c), where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought (or, as the case may be, an application for [<sup>F45</sup>permission] to appeal against the decision has not been made) but the time for doing so has not yet expired, is where the Secretary of State [<sup>F46</sup>or the Board]—

- (a) certifies in writing that he is [<sup>F47</sup>, or certify in writing that they are,] considering appealing against that decision; and
- (b) considers [<sup>F48</sup>, or consider,] that, if such an appeal were to be determined in a particular way—
  - (i) there would be no entitlement to benefit in a case to which section 25(1)(a) refers; or
  - (ii) the appeal would affect the decision in that case in some other way.

- F44** Words in reg. 21(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **16(2)**
- F45** Word in reg. 21(4) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 111**
- F46** Words in reg. 21(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **16(3)(a)**
- F47** Words in reg. 21(4)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **16(3)(b)**



- F48** Words in reg. 21(4)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **16(3)(c)**

### Appeals involving issues that arise in other cases

**22.** The circumstance prescribed under section 26(6)(c), where an appeal is pending against a decision in the case described in section 26(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for <sup>F49</sup>permission] to appeal against the decision has not been made) but the time for doing so has not yet expired, is where the Secretary of State <sup>F50</sup>or the Board]—

- (a) certifies in writing that he is <sup>F51</sup>, or certify in writing that they are,] considering appealing against that decision; and
- (b) considers <sup>F52</sup>, or consider,] that, if such an appeal were already determined, it would affect the determination of the appeal described in section 26(1)(a).

- F49** Word in reg. 22 substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 112**
- F50** Words in reg. 22 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **17(a)**
- F51** Words in reg. 22(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **17(b)**
- F52** Words in reg. 22(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **17(c)**

### Child support decisions involving issues that arise on appeal in other cases

**23.**—<sup>F53</sup>(1) For the purposes of section 28ZA(2)(b) of the Child Support Act <sup>M5</sup> (prescribed cases and circumstances in which a decision may be made on a prescribed basis), a case which satisfies either of the conditions in paragraph (2) is a prescribed case.

- (2) The conditions referred to in paragraph (1) are that—
  - (a) if a decision were not made on the basis prescribed in paragraph (3), the parent with care would become entitled to income support if a claim were made, or to an increased amount of that benefit;
  - (b) the <sup>F54</sup>non-resident parent] is an employed earner or a self-employed earner.
- (3) For the purposes of section 28ZA(2)(b) of the Child Support Act, the prescribed basis on which the <sup>F55</sup>Secretary of State] may make the decision is as if—
  - (a) the appeal in relation to the different maintenance <sup>F56</sup>calculation], which is referred to in section 28ZA(1)(b) of that Act had already been determined; and
  - (b) that appeal had been decided in a way that was the most unfavourable to the applicant for the decision mentioned in section 28ZA(1)(a) of that Act.

(4) The circumstances prescribed under section 28ZA(4)(c) of the Child Support Act (where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought or, as the case may be, an application for <sup>F57</sup>permission] to appeal against the decision has not been made but the time for doing so has not expired), are that the <sup>F58</sup>Secretary of State]—

- (a) certifies in writing that [<sup>F58</sup>the Secretary of State] is considering appealing against that decision; and
  - (b) [<sup>F58</sup>the Secretary of State] considers that, if such an appeal were to be determined in a particular way—
    - (i) there would be no liability for child support maintenance, or
    - (ii) such liability would be less than would be the case were an appeal not made.
- (5) In this regulation—
- “<sup>F59</sup>non-resident parent]” and “parent with care” have the same meaning as in section 54 of the Child Support Act;
- “employed earner” and “self-employed earner” have the same meaning as in section 2(1) of the Contributions and Benefits Act.]

- F53** Reg. 23 omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F54** Words in reg. 23(2)(b) substituted (3.3.2003 with effect in accordance with reg. 1(1), (3) of the amending S.I.) by [The Child Support \(Consequential Amendments and Transitional Provisions\) Regulations 2001 \(S.I. 2001/158\)](#), reg. 1(1), (3), 4(2); S.I. 2001/192 , art. 3, **Sch.**
- F55** Words in reg. 23(3) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(10)(a)**
- F56** Word in reg. 23(3)(a) substituted (3.3.2003 with effect in accordance with reg. 1(1), (3) of the amending S.I.) by [The Child Support \(Consequential Amendments and Transitional Provisions\) Regulations 2001 \(S.I. 2001/158\)](#), **reg. 1(1)**, (3), 4(3); S.I. 2001/192 , art. 3, **Sch.**
- F57** Word in reg. 23(4) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 113**
- F58** Words in reg. 23(4) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(10)(b)**
- F59** Words in reg. 23(5) substituted (3.3.2003 with effect in accordance with reg. 1(1), (3) of the amending S.I.) by [The Child Support \(Consequential Amendments and Transitional Provisions\) Regulations 2001 \(S.I. 2001/158\)](#), **reg. 1(1)**, (3), 4(2); S.I. 2001/192 , art. 3, **Sch.**

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**Marginal Citations**

- M5** Section 28ZA was inserted by section 43 of the Social Security Act 1998.

**Child support appeals involving issues that arise in other cases**

24. [<sup>F60</sup>The circumstances prescribed under section 28ZB(6)(c) of the Child Support Act <sup>M6</sup>, where an appeal is pending against a decision in the case described in section 28ZB(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for [<sup>F61</sup>permission] to appeal against the decision has not been made), is where the [<sup>F62</sup>Secretary of State] —

- (a) certifies in writing that [<sup>F63</sup>the Secretary of State] is considering appealing against that decision, and
- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in section 28ZB(1)(a).]

- F60** Reg. 24 omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F61** Word in reg. 24 substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 114**
- F62** Words in reg. 24 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(11)(a)**
- F63** Words in reg. 24(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(11)(b)**

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**Marginal Citations**

- M6** Section 28ZB was inserted by section 43 of the Social Security Act 1998.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999, PART III .