STATUTORY INSTRUMENTS

2005 No. 191

CHILD TRUST FUNDS

The Child Trust Funds (Non-tax Appeals) Regulations 2005

Made - - - -	*3 February 2005*
Laid before Parliament	*4 February 2005*
Coming into force - -	*25 February 2005*

The Treasury, in exercise of the powers conferred upon them by sections 23(1), 24(5) and 28(1) to (4) of the Child Trust Funds Act 2004(**a**), make the following Regulations:

Citation, commencement and duration

1.—(1) These Regulations may be cited as the Child Trust Funds (Non-tax Appeals) Regulations 2005 and shall come into force on 25 February 2005.

(2) These Regulations shall cease to have effect on the day appointed by Order made under section 24(1) of the Child Trust Funds Act 2004 (temporary modifications).

Interpretation

2. In these Regulations—

"the Act" means the Child Trust Funds Act 2004;

"appeal tribunal" means an appeal tribunal constituted—

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

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

"child trust fund appeal" means an appeal under section 22 of the Act which, by virtue of section 24 of the Act, 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 1998 Act 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 1998 Order;

"the 1998 Act" means the Social Security Act 1998**(b)**;

(**a**) 2004 c. 6; section 24(5) was brought into force on 1st January 2005 by S.I. 2004/2422 (C. 103) and section 23(1) brought into force on the same date by S.I. 2004/3369 (C. 158).

(b) 1998 c. 14.

"the 1998 Order" means the Social Security (Northern Ireland) Order 1998**(a)**.

Prescribed manner of notice of appeal

3.—(1) The prescribed manner of giving notice of appeal to the Inland Revenue under section 23(1) of the Child Trust Funds Act 2004 is as follows.

(2) The notice must—

(a) be given in writing,

(b) contain sufficient information to identify the appellant and the decision against which the appeal is being made, and

(c) be signed by or on behalf of the appellant.

(3) In paragraph (2)(a) "writing" includes writing produced by electronic communications if those electronic communications are approved by the Commissioners of Inland Revenue.

(4) In paragraph (2)(c) "signed", where the notice is in writing produced by electronic communications, means authenticated in any manner approved by those Commissioners.

Application of section 54 of the Taxes Management Act 1970

4.—(1) Section 54 of the Taxes Management Act 1970**(b)** (settling of appeals by agreement) shall apply to a child trust fund appeal to an appeal tribunal, with the following modifications.

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

(3) In subsections (1) and (4) omit "assessment or", in each place where those words occur.

(4) In subsections (1) to (3) and (4)(a) for "inspector or other proper officer of the Crown" substitute "officer of the Board".

(5) In subsection (3)(a), (4)(b) and in the words following paragraph (b) in subsection (4), for "inspector or other proper officer" substitute "officer of the Board".

(6) 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 sections 5 to 7 of and Schedule 1 to the 1998 Act or Articles 6 to 8 of and Schedule 1 to the 1998 Order

5.—(1) Sections 5 to 7 of and paragraphs 7, 11 and 12 of Schedule 1 to the 1998 Act or, in Northern Ireland, Articles 6 to 8 of and paragraphs 7, 11 and 12 of Schedule 1 to the 1998 Order, shall apply to a child trust fund appeal to an appeal tribunal with the following modifications.

(2) In paragraph 12 in Schedule 1 to the 1998 Act, for references to officers authorised by the Secretary of State substitute references to the clerk to the appeal tribunal.

(3) In paragraph 12 in Schedule 1 to the 1998 Order, for references to officers authorised by the Department substitute references to the clerk to the appeal tribunal.

(a) S.I. 1998/1506 (N.I. 10).
(b) 1970 c. 9.

Application of section 12 of the 1998 Act or Article 13 of the 1998 Order

6.—(1) Section 12 of the 1998 Act ("section 12") or, in Northern Ireland, Article 13 of the 1998 Order ("Article 13") (appeals to an appeal tribunal), shall apply to a child trust fund appeal to an appeal tribunal, with the following modifications.

(2) Omit subsections (1) to (6) of section 12 and paragraphs (1) to (6) of Article 13.

(3) In subsection (8) of section 12 for "an appeal under this section" substitute "a child trust fund appeal".

(4) In paragraph (8) of Article 13 for " an appeal under this Article" substitute "a child trust fund appeal".

(5) Omit subsections (8)(a) and (9) of section 12 and paragraphs (8)(a) and (9) of Article 13.

Application of section 13 of the 1998 Act or Article 14 of the 1998 Order

7. Section 13 of the 1998 Act**(a)** ("section 13") or, in Northern Ireland, Article 14 of the 1998 Order**(b)** ("Article 14) (redetermination etc. of appeals by tribunal), shall apply to a decision of an appeal tribunal on a child trust fund appeal (other than a decision on a penalty appeal under section 21(9) of the Act as modified by section 24(2) of the Act), with the modifications that subsections (3) and (4) of section 13, and paragraphs (3) and (4) of Article 14, are omitted.

Application of section 14 of the 1998 Act or Article 15 of the 1998 Order

8.—(1) Section 14(1) to (10) of the 1998 Act**(c)** or, in Northern Ireland, Article 15(1) to (10) of the 1998 Order**(d)** (Appeal from tribunal to Commissioner), shall apply to a decision of an appeal tribunal on a child trust fund appeal (other than a decision on a penalty appeal under section 21(9) of the Act as modified by section 24(2) of the Act)), with the following modifications.

(2) In section 14—

(a) in subsection (1) for "under section 12 or 13 above" substitute "on a child trust fund appeal";

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

(c) for subsection (3)(b) substitute—

"(b) the appellant in the child trust fund appeal;";

(d) omit subsections (3)(c) and (d), and (4) to (6); and

(e) in subsection (7) for "principal parties" substitute "Board and the appellant".

(3) In Article 15—

(a) in paragraph (1) for "under Article 13 or 14" substitute "on a child trust fund appeal";

(b) in paragraph (3)(a) for "Department" substitute "Board";

(c) for paragraph (3)(b) substitute—

"(b) the appellant in the child trust fund appeal;";

(d) omit paragraphs (3)(c) and (d), and (4) to (6); and

(e) in paragraph (7) for "principal parties" substitute "Board and the appellant".

(a) Section 13(4) was substituted by paragraph 26 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) Article 14(4) was substituted by paragraph 20 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

(c) Section 14 was amended by paragraph 27 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(d) Article 15 was amended by Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

Application of section 14(11) and (12) of and Schedule 4 to the 1998 Act or Article 15(11) to (13) of the 1998 Order

9.—(1) Section 14(11) and (12) of, and Schedule 4 to, the 1998 Act, or, in Northern Ireland, 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 child trust fund appeal, with the following modifications.

(2) So far as concerns decisions of an appeal tribunal on a penalty appeal under section 21(9) of the Act as modified by section 24(2) of the Act, in subsection (11) of section 14 and paragraph (11) of Article 15, omit the words "and applications made for leave to appeal".

Application of section 15 of the 1998 Act

10. 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 child trust fund appeal.

Application of section 16 of the 1998 Act or Article 16 of the 1998 Order

11.—(1) Section 16 ("section 16") of and Schedule 5 to the 1998 Act or, in Northern Ireland, Article 16 ("Article 16") of and Schedule 4 to the 1998 Order (procedure), shall apply for the purposes of a child trust fund appeal with the following modifications.

(2) Omit subsection (3)(b) of section 16 and the word "and" immediately preceding it.

(3) Omit paragraph (3)(b) of Article 16 and the word "and" immediately preceding it.

(4) Omit subsections (4) and (5) of section 16 and paragraphs (4) and (5) of Article 16.

(5) In Schedule 5 to the 1998 Act, in paragraph 1, omit "the Secretary of State," in both places where those words occur.

(6) In Schedule 4 to the 1998 Order, in paragraph 1, omit "the Department", in both places where those words occur.

Application of section 17 of the 1998 Act or Article 17 of the 1998 Order

12.—(1) Section 17 of the 1998 Act ("section 17") or, in Northern Ireland, Article 17 of the 1998 Order ("Article 17") (finality of decisions), shall apply to a decision of an appeal tribunal or a Social Security Commissioner on a child trust fund appeal, with the following modifications.

(2) For subsection (1) of section 17 substitute the following subsection—

> **"**(1) Subject to the provisions of—
>
> (a) sections 12 to 16, and 28 of this Act (as modified by the Child Trust Funds (Non-tax Appeals) Regulations 2004), and
>
> (b) sections 21(9) and (10) and 22 to 24 of the Child Trust Funds Act 2004,
>
> any decisions made in accordance with those provisions in respect of a child trust fund appeal which, in accordance with section 24 of the Child Trust Funds Act 2004, is to an appeal tribunal or lies to a Commissioner, shall be final.**"**.

(3) For paragraph (1) of Article 17 substitute the following paragraph—

> **"**(1) Subject to the provisions of—
>
> (a) Articles 13 to 16, and 28 of this Order (as modified by the Child Trust Funds (Non-tax Appeals) Regulations 2004), and
>
> (b) sections 21(9) and (10) and 22 to 24 of the Child Trust Funds Act 2004],
>
> any decisions made in accordance with those provisions in respect of a child trust fund appeal which, in accordance with section 24 of the Child Trust Funds Act 2004, is to an appeal tribunal or lies to a Commissioner, shall be final.**"**.

(4) Omit subsection (2)(b) and (c) of section 17 and paragraph (2)(b) and (c) of Article 17.

Application of section 28 of the 1998 Act or Article 28 of the 1998 Order

13.—(1) Section 28 of the 1998 Act**(a)** ("section 28") or, in Northern Ireland, Article 28 of the 1998 Order**(b)** ("Article 28") (correction of errors and setting aside of decisions), shall apply to a decision by an appeal tribunal or a Social Security Commissioner on a child trust fund appeal, with the following modifications.

(2) Omit subsection (1A) of section 28 and paragraph (1A) of Article 28.

(3) For subsection (3) of section 28 substitute the following subsection—

"(3) In this section "relevant enactment" means —

(a) any of sections 12 to 17 above (as modified by the Child Trust Funds (Non-tax Appeals) Regulations 2004), and

(b) sections 21(9) and (10) and 22 to 24 of the Child Trust Funds Act 2004.**"**.

(4) For paragraph (3) of Article 28 substitute the following paragraph—

"(3) In this Article "relevant statutory provision" means—

(a) any of Articles 13 to 17 above (as modified by the Child Trust Funds (Non-tax Appeals) Regulations 2004), and

(b) sections 21(9) and (10) and 22 to 24 of the Child Trust Funds Act 2004.**"**.

Application of section 39 of the 1998 Act or Article 39 of the 1998 Order

14.—(1) Section 39 of the 1998 Act**(c)** or, in Northern Ireland, Article 39 of the 1998 Order **(d)**(interpretation etc. of Chapter 2), shall apply for the purposes of a child trust fund appeal with the following modifications.

(2) In subsection (1) of section 39—

(a) insert at the appropriate places—

""the Board" means the Commissioners of the Inland Revenue;

"child trust fund appeal" means an appeal under section 22 of the Child Trust Funds Act 2004 which, by virtue of section 24 of that Act, is to an appeal tribunal or lies to a Social Security Commissioner;**"**;

(b) omit the definitions of "claimant", "relevant benefit "and "tax appeal Commissioners".

(3) In paragraph (1) of Article 39—

(a) for the definition of "Inland Revenue" substitute—

""the Board" means the Commissioners of Inland Revenue;

"child trust fund appeal" means an appeal under section 22 of the Child Trust Funds Act 2004 which, by virtue of section 24 of that Act, is to an appeal tribunal or lies to a Social Security Commissioner;**"**;

(b) omit the definitions of "claimant", "relevant benefit" and "tax appeal Commissioners".

(4) Omit subsections (2) and (3) of section 39 and paragraphs (2) and (3) of Article 39.

(a) Section 28(1A) was inserted by paragraph 34 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(b) Article 28(1A) was inserted by paragraph 28 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

(c) Section 39 was amended by paragraph 35 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(d) Article 39 was relevantly amended by paragraph 29 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

Application of sections 79, 80 and 84 of the 1998 Act or Articles 74 and 75 of the 1998 Order

15.—(1) Sections 79, 80**(a)** and 84 of the 1998 Act or, in Northern Ireland, Articles 74 and 75**(b)** of the 1998 Order shall apply to regulations for child trust fund appeals, made under provisions of the 1998 Act or the 1998 Order applied by these Regulations, with the following modifications.

(2) In section 79—

(a) in subsection (1) for "subsections (2) and (2A) below" substitute "subsection (2)";

(b) omit subsections (2A) and (8).

(3) In Article 74—

(a) in paragraph (1)—

(i) for "paragraphs (2) and (2A)" substitute "paragraph (2)";

(ii) for "Department" substitute "Treasury";

(b) omit paragraphs (2A) and (7).

(4) In Article 75 omit paragraphs (1) and (3).

Jim Murphy
Nick Ainger

3 February 2005 — Two of the Lords Commissioners of Her Majesty's Treasury

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(a) Sections 79 and 80 were amended by paragraphs 13 and 14 of Schedule 4 to the Tax Credits Act 2002 (c. 21).
(b) Articles 74 and 75 were amended by paragraphs 17(2) and (3) and 18(2) to (6) of Schedule 4 to the Tax Credits Act 2002.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for appeals against decisions of the Inland Revenue in respect of child trust funds, under section 22 of the Child Trust Funds Act 2004 (c. 6) ("the 2004 Act"). These appeals are to appeal tribunals within the Appeals Service, with a further right of appeal on a point of law to the Social Security Commissioners. These arrangements for the hearing of appeals are temporary, until the Treasury make an order under section 24(1) of the 2004 Act which will not be until the tax tribunals have been reformed. (Those tax tribunals will hear appeals concerning tax liabilities and relief, withdrawal of relief and recovery of tax for child trust funds, provided for by regulations made under section 13(1) to (3) and (5) of the 2004 Act, from the commencement of the child trust funds scheme on 6th April 2005).

The principal effects of these Regulations are (1) to provide for the manner in which notice of appeal is to be given and (2) to apply and modify provisions of the Taxes Management Act 1970, and social security legislation dealing with social security appeals, for child trust fund appeals.

Regulation 1 provides for citation, commencement and duration (it is intended that these temporary arrangements for the hearing of child trust fund appeals will be ended by an Order under section 24(1) of the 2004 Act, once the reform of tribunals referred to is completed).

Regulation 2 provides for interpretation.

Regulation 3 prescribes the manner in which notice of appeal to the Inland Revenue is to be given.

Regulation 4 applies and makes technical modifications to section 54 of the Taxes Management Act 1970, for child trust fund appeals. Regulations 5 to 15 apply and make technical modifications to social security appeals legislation for Great Britain and Northern Ireland, for child trust fund appeals.

A full Regulatory Impact Assessment was prepared and issued on the introduction to Parliament of the Child Trust Funds Bill (passed as the 2004 Act) in November 2003.

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