Draft Order laid before the House of Commons under section 124(8) of the Finance Act 2008 (c. 9), for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2014 No.

TAX CREDITS
SOCIAL SECURITY

The Tax Credits, Child Benefit and Guardian's Allowance Reviews and Appeals Order 2014

Made - - - -	***
Coming into force - -	*6th April 2014*

The Treasury make this Order in exercise of the powers conferred by section 124(1), (2), (6) and (7) of the Finance Act 2008(**1**).

A draft of this instrument was laid before and approved by resolution of the House of Commons in accordance with section 124(8) of that Act.

Citation, commencement and effect

1.—(1) This Order may be cited as the Tax Credits, Child Benefit and Guardian's Allowance Reviews and Appeals Order 2014 and comes into force on 6th April 2014.

(2) But articles 2(13), 3(2) to (6), 5(2), 5(7)(a), (c), (e), (g), (h), (j) and (l), and 5(9) only come into force on a day appointed by an order of the Treasury made by statutory instrument, and the Treasury may so appoint different days for different purposes.

(3) Articles 2(12) and 3(1) extend to England and Wales and Scotland only.

(4) Articles 2(13) and 3(2) to (6) extend to Northern Ireland only.

(5) Any amendment made by this Order only has effect in relation to an HMRC decision(**2**) made on or after the amendment comes into force.

Amendment of the Tax Credits Act 2002

2.—(1) The Tax Credits Act 2002(**3**) is amended as follows.

(2) In section 18(11), for "19 and 20" substitute: "19, 20, 21A and 21B".

(**1**) 2008 c. 9.
(**2**) Section 124(11) of the Finance Act 2008 defines "HMRC decision".
(**3**) 2002 c. 21.

(3) In section 19(12), for "section 20" substitute: "sections 20, 21A and 21B".

(4) In section 20(6)—

(a) at the end of paragraph (b), insert: "or";

(b) for everything from "including" to the end, substitute—

"(c) a decision within paragraph (a) or (b) as varied under section 21A(5)(b), or

(d) a decision on an appeal against a decision within paragraph (a), (b) or (c).".

(5) In section 20(7) after "section 21" insert: "and to any review under section 21A".

(6) After section 21, insert—

"**Review of decisions**

21A.—(1) The Commissioners for Her Majesty's Revenue and Customs must review(**4**) any decision within section 38(1) if they receive a written application to do so that identifies the applicant and decision in question, and—

(a) that application is received within 30 days of the date of the notification of the original decision or of the date the original decision was made if not notified because of section 23(3), or

(b) it is received within such longer period as may be allowed under section 21B.

(2) The Commissioners must carry out the review as soon as is reasonably practicable.

(3) When the review has been carried out, the Commissioners must give the applicant notice of their conclusion containing sufficient information to enable the applicant to know—

(a) the conclusion on the review,

(b) if the conclusion is that the decision is varied, details of the variation, and

(c) the reasons for the conclusion.

(4) The conclusion on the review must be one of the following—

(a) that the decision is upheld;

(b) that the decision is varied;

(c) that the decision is cancelled.

(5) Where—

(a) the Commissioners notify the applicant of further information or evidence that they may need for carrying out the review, and

(b) the information or evidence is not provided to them by the date specified in the notice,

the review may proceed without that information or evidence.

Late application for a review

21B.—(1) The Commissioners for Her Majesty's Revenue and Customs may in a particular case extend the time limit specified in section 21A(1)(a) for making an application for a review if all of the following conditions are met.

(2) The first condition is that the person seeking a review has applied to the Commissioners for an extension of time.

(3) The second condition is that the application for the extension—

(a) explains why the extension is sought, and

(**4**) In practice, this review will be known as a "mandatory reconsideration".

(b) is made within 13 months of the notification of the original decision or of the date the original decision was made if not notified because of section 23(3) .

(4) The third condition is that the Commissioners are satisfied that due to special circumstances it was not practicable for the application for a review to have been made within the time limit specified in section 21A(1)(a).

(5) The fourth condition is that the Commissioners are satisfied that it is reasonable in all the circumstances to grant the extension.

(6) In determining whether it is reasonable to grant an extension, the Commissioners must have regard to the principle that the greater the amount of time that has elapsed between the end of the time limit specified in section 21A(1)(a) and the date of the application, the more compelling should be the special circumstances on which the application is based.

(7) An application to extend the time limit specified in section 21A(1)(a) which has been refused may not be renewed.".

(7) In section 23(2), after "details of any right", insert: "to a review under section 21A and of any subsequent right".

(8) In sections 28(1) and 30(1), for "21" substitute: "21B".

(9) In section 31(1)(b), after "section 25" insert: "or in response to a notification under section 21A(5)".

(10) In section 38(1)(**5**), after "may", insert: ", subject to subsection (1A),".

(11) After section 38(1), insert—

"(1A) An appeal may not be brought by virtue of subsection (1) against a decision unless a review of the decision has been carried out under section 21A and notice of the conclusion on the review has been given under section 21A(3).

(1B) If in any case the conclusion of a review under section 21A is to uphold the decision reviewed, an appeal by virtue of subsection (1) in that case may be brought only against the original decision.

(1C) If in any case the conclusion of a review under section 21A is to vary the decision reviewed, an appeal by virtue of subsection (1) in that case may be brought only against the decision as varied.".

(12) Section 39(1) and (2) is repealed (for England and Wales and Scotland).

(13) In section 39(1) (for Northern Ireland)—

(a) omit: "to the Board";

(b) from "notice of the decision" to the end, substitute: "notice under section 21A(3) was given of the conclusion on the review of the decision".

Revocation (for Great Britain) and amendment (for Northern Ireland) of the Tax Credits (Notice of Appeal) Regulations 2002

3.—(1) The Tax Credits (Notice of Appeal) Regulations 2002(**6**) are revoked (for England and Wales and Scotland).

(2) Those Regulations are amended (for Northern Ireland) as follows.

(3) In regulations 2(1), omit: "to the Board".

(4) In regulation 2(2)(a), after "writing", insert: "to the appropriate office".

(5) In regulations 2(3) and 2(4), for "Board" substitute: "appropriate office".

(**5**) Section 38(1) was amended by the Welfare Reform Act 2012 (c. 5), section 120(1) and (3).
(**6**) S.I. 2002/3119.