Draft Regulations laid before Parliament under section 15(5) of the Tax Credits Act 1999, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1999 No.

TAXES

The Tax Credit (New Category of Child Care Provider) Regulations 1999

Made - - - -	*1999*
Coming into force - -	*1999*

Whereas a draft of this instrument was laid before Parliament in accordance with section 15(5) of the Tax Credits Act 1999(**1**) and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Education and Employment, in exercise of the powers conferred by sections 15(1) and 15(4) of the Tax Credits Act 1999, hereby makes the following Regulations:

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Tax Credit (New Category of Child Care Provider) Regulations 1999 and shall come into force on the fourteenth day after the day on which they were made.

(2) Paragraph (3) below applies if, before these Regulations come into force, the functions of the Secretary of State under section 15 of the Tax Credits Act 1999 in relation to the accreditation of organisations in accordance with criteria determined by or under a scheme made under that section have become vested in the National Assembly for Wales by virtue of an Order made under section 22 of the Government of Wales Act 1998(**2**).

(3) Where this paragraph applies, references in these regulations to the Secretary of State shall be read in relation to Wales as references to the National Assembly for Wales.

Interpretation

2.—(1) In these Regulations—

"accredited" in relation to an organisation means accredited by the Secretary of State in accordance with the criteria set out in these Regulations;

(**1**) 1999 c. 10.
(**2**) 1998 c. 38.

"child care provider" means a person who looks after one or more children over the age of seven and under the age of fifteen (under the age of sixteen if the child is disabled) for reward on domestic premises, or a person who provides day care for such children on premises (other than domestic premises) for a period, or for a total of the periods during which children are looked after in any day, exceeding two hours;

"disabled" in relation to a child under the age of sixteen means, a child—

(a) in respect of whom disability living allowance is payable, or has ceased to be payable solely because he is a patient within the meaning of regulation 10 of the Disability Working Allowance (General) Regulations 1991(**3**);

(b) who is registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948(**4**) (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a regional or islands council; or

(c) who ceased to be registered as blind in such a register within the 28 weeks immediately preceding the date of claim;

"disabled person's tax credit" shall be construed in accordance with section 1(1) of the Tax Credits Act 1999;

"system" means the quality assurance system operated by an accredited organisation for assessing the quality of child care provided and for approving such child care for the purposes of determining the amount of working families' tax credit or disabled person's tax credit available to users of such child care;

"working families' tax credit" shall be construed in accordance with section 1(1) of the Tax Credits Act 1999.

(2) Except where the context otherwise requires, any reference in these Regulations to a regulation or Schedule is a reference to a regulation contained herein or to a Schedule hereto, any reference in a regulation or Schedule to a paragraph is a reference to a paragraph of the regulation or Schedule, and any reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph thereof.

Scheme for new category of child care providers

3. These Regulations establish a scheme for establishing a new category of persons whose charges for providing child care are to be taken into account for the purposes of determining the appropriate amount of working families' tax credit or disabled person's tax credit for the purposes of section 15 of the Tax Credits Act 1999.

Requirements for the scheme

4. No person shall fall within the new category unless he is approved by an accredited organisation.

Criteria for accreditation

5. The Secretary of State shall accredit an organisation for the purposes of the scheme if in his opinion it satisfies the following criteria—

(a) it operates a system for approving child care providers that meets the requirements set out in regulation 6 and is satisfactory to the Secretary of State;

(**3**) S.I.1991/2887.
(**4**) 1948 c. 29.

(b) it has the ability to ensure the quality of child care provided by persons which it approves;

(c) it satisfies such other conditions relating to the system as the Secretary of State considers necessary and expedient; and

(d) it operates an equal opportunities policy for its employees, in relation to the services it provides, to the quality assurance scheme and to the training of assessors.

Requirements of the system

6. The system shall include the matters set out in the First Schedule.

Application for accreditation

7. An organisation seeking accreditation shall apply to the Secretary of State in a form substantially corresponding to that set out in Part I of the Second Schedule, containing the information therein specified and dated and authenticated by the signature of a duly authorised officer of the organisation.

Grant of accreditation

8.—(1) Subject to the following paragraphs of this regulation, where an organisation applies to the Secretary of State for accreditation he may—

(a) reject the application, or

(b) grant the accreditation on such conditions, if any, as he thinks necessary or expedient.

(2) Before making a decision in accordance with paragraph (1), the Secretary of State may require further evidence from the organisation, and may consult any person as he thinks fit.

(3) Before rejecting an application under paragraph (1), the Secretary of State shall advise the organisation in writing that he is minded not to accredit the organisation, giving his reasons, and inviting the organisation to make representations in support of its application within 28 days after the notification is issued.

(4) The Secretary of State shall consider any representations made by the organisation before making his decision under paragraph (1).

(5) Where the Secretary of State is minded to grant accreditation in principle under paragraph (1)(b), he shall notify the organisation in writing that he is minded to grant the accreditation on the conditions set out in the notification.

(6) When the organisation receives a notice issued under paragraph (5) it shall within 28 days either

(a) advise the Secretary of State in writing that it accepts the conditions proposed; or

(b) make representations in support of its objections to the conditions proposed.

(7) The Secretary of State shall consider any representation made by the organisation about the conditions, before he makes his decision under paragraph (1).

(8) When the Secretary of State makes his decision under paragraph (1) he shall notify the organisation concerned in writing.

(9) When the Secretary of State decides to accredit an organisation, the notice in writing issued under paragraph (8) shall specify the conditions of accreditation, and a copy of the notice of accreditation shall be sent to the Inland Revenue.

(10) Accreditation shall be for a period of three years and shall be conditional upon the organisation continuing to meet the conditions and criteria for accreditation.

Renewal of accreditation

9.—(1) If an accredited organisation wishes to renew its accreditation it must, during the period of two months prior to the expiry of its accreditation, make an application to renew in a form substantially corresponding to that set out in Parts I and II of the Second Schedule.

(2) Where an organisation applies to the Secretary of State for renewal of an accreditation he may—

(a) reject the application, or

(b) grant the accreditation on such conditions, if any, as he thinks fit.

(3) The Secretary of State shall follow the procedures set out in regulation 8(2) to (8) when making his decision, and may vary the conditions imposed on the accreditation.

(4) Any renewed accreditation shall be for a period of three years from the expiry of the earlier accreditation, and shall be conditional upon the organisation continuing to meet the conditions and criteria for accreditation.

(5) Until the determination of an application under paragraph (1), the accreditation shall continue in force, not withstanding that apart from this paragraph it would expire earlier.

Withdrawal of accreditation or variation of conditions of accreditation

10.—(1) Subject to the following paragraphs of this regulation, the Secretary of State may withdraw accreditation or vary the conditions of accreditation if he is satisfied that—

(a) the organisation no longer meets the criteria for accreditation set out in regulation 5; or

(b) the organisation has acted improperly.

(2) The Secretary of State shall notify the organisation in writing if he is minded to withdraw the accreditation or vary the conditions of accreditation, giving his reasons and inviting the organisation to make representations within 28 days after the notice is issued.

(3) The Secretary of State shall consider any representation before making his decision under paragraph (1).

(4) When the Secretary of State makes his decision under paragraph (1), he shall notify the organisation concerned in writing.

(5) If the decision is to withdraw the accreditation or vary the conditions of accreditation, such decision shall become effective 28 days after the date on which the organisation is informed of the decision, but otherwise the decision shall take effect when it is made.

(6) If the Secretary of State is of the opinion that it is necessary to suspend the organisation's accreditation for the period during which he is considering withdrawing the accreditation or varying the conditions of accreditation, he may do so, provided that he has notified the organisation of this in the notice issued under paragraph (2).

(7) If the accreditation is suspended in accordance with paragraph (6), the organisation shall not approve any child care providers during the period of the suspension, without prejudice to the validity of approvals already given.

Requirements during the period of accreditation

11. During the period for which an organisation is accredited that organisation shall—

(a) provide, to the Inland Revenue or to the Secretary of State, such information as is requested about child care providers that it has approved under its system for the purposes of checking eligibility for child care tax credit or for insuring the effective operation of the system;