

**EXPLANATORY MEMORANDUM TO
THE CHILD TRUST FUNDS (APPEALS) (NORTHERN IRELAND)
REGULATIONS 2005**

2005 No.

- 1.** This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

These regulations make procedural rules for appeals to Northern Ireland appeal tribunals against decisions made by the Inland Revenue on Child Trust Funds (other than tax appeals).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The use of the affirmative procedure for these Regulations is required by Article 75(1A) of the Social Security (Northern Ireland) Order 1998 (SI 1998/1506 (N.I. 10)). The regulations which attract affirmative procedure are :

- regulation 6 (under powers in Article 8(6) of the 1998 Order) which prescribes the composition of appeals tribunals;
- regulation 8(3) and 9(3) (under powers in paragraph 12 of Schedule 1 to the 1998 Order) which authorise a clerk to an appeal tribunal to give directions;
- regulations 13 and 14 (under powers in paragraph 12 of Schedule 1 and paragraph 2 of Schedule 4 to the 1998 Order) which provide for the striking out and reinstatement of appeals;
- regulation 16 (under powers in Article 8(6) of the 1998 Order) which provides for expert assistance to be given to an appeal tribunal; and
- regulation 21 (under powers in paragraph 12 of Schedule 1 to the 1998 Order) which provides for a clerk to an appeal tribunal to correct accidental errors in any decision of an appeal tribunal.

4. Legislative Background

4.1 The Child Trust Funds Act 2004 introduces child trust funds. It provides for tax related appeals concerning child trust funds to go to the General Commissioners or Special Commissioners appointed under the Taxes Management Act 1970. But, as a temporary measure, the 2004 Act provides for child trust fund non –tax appeals to be heard by appeal tribunals constituted

under the 1998 Order instead of the General Commissioners or Special Commissioners.

4.2 These regulations are made under powers in the Social Security (Northern Ireland) Order 1998 as applied and modified by the Child Trust Funds (Non-tax Appeals) Regulations 2005. The latter regulations are made under powers in the Child Trust Funds Act 2004. The 2004 Act provides for the Treasury to make regulations which apply and modify provisions in the 1998 order in relation to child trust funds appeals to an appeal tribunal under section 22 of the 2004 Act or which lie to a Social Security Commissioner by virtue of section 24 (“temporary modifications”).

4.3 The present Regulations prescribe the procedure for child trust fund appeals heard by appeals tribunals.

4.4 For related instruments please see the

- The draft Child Trust Funds (Appeals) Regulations 2005 (see paragraph 5)
- The draft Social Security Commissioners (Procedure) (Child Trust Funds) Regulations 2005

both of which are also subject to affirmative procedure.

5. Extent

5.1 These regulations extend to Northern Ireland.

5.2 The Department for Work and Pensions has drafted regulations for Great Britain that mirror these provisions – the Child Trust Funds (Appeals) Regulations 2005. Those regulations are also subject to affirmative procedure.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, Stephen Timms MP has made the following statement regarding Human Rights:

In my view the provisions of the Child Trust Funds (Appeals) (Northern Ireland) Regulations 2005 are compatible with the Convention rights.

7. Policy background

7.1 The appeals route for child trust funds follows the arrangement for Tax Credits whereby appeals against decisions made by the Inland Revenue will be heard on a transitory basis by appeal tribunals within the Appeals Service until such time as the planned reforms of the Tax Commissioner are complete. During the transitory period there will be a further right of appeal on a point of law to the Social Security Commissioners. Child trust fund tax appeals (appeals against the Inland Revenue’s decision on an annual tax claim or against any assignment to recover tax) will not be dealt with under these transitional arrangements but will continue under the usual channels for Tax Appeals, going to the General and Special Commissioners.

7.2 These Regulations are freestanding regulations governing child trust fund appeals in Northern Ireland. For child trust fund providers and parents of eligible children and their advisers, the relevant appeal procedure regulations will be in one place for easy reference. The effect of the Regulations will cease when an order is made under section 24(1) of the 2004 Act to transfer child trust fund appeals to the Tax Appeals system. This will avoid the need for amendment of the main Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”) in respect of child trust fund appeals or repeal of these Regulations.

7.3 In so far as it is possible under the linked primary legislation, the majority of these regulations mirror for child trust fund purposes the appeals procedure provisions in the extant Decisions and Appeals Regulations as most recently amended. The Explanatory Memorandum for the draft Child Trust Funds (Appeals) Regulations 2005 which the draft Northern Ireland Regulations mirror sets out where the regulations differ from the existing main Decisions and Appeals Regulations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business.

9. Contact

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