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## APPEAL TRIBUNAL

Held at [REDACTED]

on [REDACTED]

Before Ms J R Findlay

Appellant: Miss [REDACTED]	Tribunal Ref. [REDACTED]
	NI No [REDACTED]
Respondent: HM Revenue and Customs	

### STATEMENT OF REASONS FOR DECISION

This statement is to be read together with the decision notice issued by the tribunal

- Miss [REDACTED] appeals against the decision dated 14/06/06 the terms of which are summarised at section 2 of HM Revenue and Customs' (HMRC's) submission.
- I have conducted an oral hearing at which I heard oral evidence from Miss [REDACTED] and her father, Mr [REDACTED], as noted on the record of proceedings. Miss [REDACTED] is represented by her father, Mr [REDACTED]. No presenting officer attended. Miss [REDACTED] confirmed she wished to proceed without a presenting officer and I find no injustice in so doing.
- I have considered the HMRC's submission and schedule of documents numbered 1 to 12 and the further information submitted by Miss [REDACTED] numbered 13 to 48. I find no injustice in proceeding without giving HMRC the opportunity to comment on the further evidence on the basis that the evidence is either information in leaflets issued by HMRC or evidence already referred to by Miss [REDACTED] or her father, Mr [REDACTED] in letters of appeal or during telephone conversations. In addition HMRC requested a determination on the papers, has been given the opportunity to attend and has chosen not to be represented.
- I find that Miss [REDACTED] was in receipt of child benefit for her son [REDACTED]. The issue before me is whether there were grounds to supersede the awarding decision of child benefit.
- HMRC submits that there has been a relevant change of circumstances, namely, that [REDACTED] left full time education on 02/06/06 and started an approved training course on 12/06/06 which is provided by means of a contract of employment.
- Mr [REDACTED], on behalf of Miss [REDACTED], submits that in Scotland no person can be on a Modern Apprenticeship without an employer. A Modern Apprenticeship generally means 2 blocks of 23 weeks at college over a 2 year period after passing CITB examinations. Thereafter the person is a fully fledged apprentice. The same employer is involved throughout. All the literature sent out by HMRC states that child benefit can be paid if a child is engaged in a Modern Apprenticeship. He states that in Scotland this is approved training. He states that there is a problem with the interpretation of Modern Apprenticeship.

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7. I find that [REDACTED] attained 18 years of age on [REDACTED] and he enrolled on a Modern Apprenticeship course on 22/08/06. The first year is due to end on 15/06/07. He attends full time over six three week blocks and one two week block amounting to a total of 20 weeks at the [REDACTED] (document 12).

8. Regulation 1(3) of the Child Benefit (General) Regulations 2006 states

.... "approved training" means arrangements made by the Government-

....(c) in relation to Scotland, known as "Get ready for Work", "Skillseekers" or ... "Modern Apprenticeships";

and "arrangements made by the Government" means arrangements-

...(b) in relation to Scotland, made-

(i) by the Scottish Ministers under section 2 of the Employment and Training Act 1973;

(ii) by Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990.

Regulation 3 (1) states that -

This regulation applies in the case of a person who has not attained the age of 20.

Regulation 3 (2) (c) states that-

The condition is that the person ... (c) is undertaking approved training that is not provided by means of a contract of employment.

9. I find that [REDACTED] at all material dates had not yet attained the age of 20 and was enrolled on a Modern Apprenticeship which was approved training for the purposes of the Regulations. He is undertaking approved training as defined. I find that the approved training was not provided by means of a contract of employment. As a Modern Apprentice, Lee was employed and received a wage and training. However there was no contract of employment. Modern Apprentices each have a Training Agreement individually drawn up to ensure the combination of theory and practice is right for each individual. The Training Agreement is unique and is an agreement between the apprentice, his employer and the Local Enterprise Company (LEC). [REDACTED] Modern Apprenticeship was funded through Scottish Enterprise Dumfries and Galloway.

10. HMRC refer in the submission to a contract of employment but no copy of this has been provided. Mr [REDACTED] referred to a contract of employment in the telephone conversation of 03/08/06. However, he informs me today that there is no such contract. I consider that it is more likely than not that [REDACTED], like all other Modern Apprentices, entered a Training Agreement with his employer and LEC which set out the terms of his employment and training. A Training Agreement is not a contract of employment.

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11. Accordingly I find that at all material dates [redacted] was undertaking approved training that was not provided by means of a contract of employment and there are no grounds to supersede the award of child benefit.

12. Accordingly the appeal succeeds.

The above is a statement of reasons for the Tribunal's decision under Regulation 53(4) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999.

<i>J. Findlay</i>	
Signed Chairman: Ms J R Findlay	Date: [redacted]
<i>Decision Notice issued to</i>	<i>Appellant on:</i> [redacted]
	<i>Respondent on:</i> [redacted] <i>DN</i>