

*These notes refer to the Tax Credits Act 2002
(c.21) which received Royal Assent on 8 July 2002*

TAX CREDITS ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Tax Credits

Section 28: Overpayments

124. *Subsection (1)* of section 28 establishes that an overpayment arises when the amount paid out in tax credits to a claimant or claimants in a tax year exceeds their entitlement to tax credits for that year and gives the Board the power to decide whether to recover the overpayment.
125. *Subsections (3) and (4)* give the Board the power to decide who should repay the overpayment in particular circumstances. In particular, it enables the Board to decide from which partner in a couple it should seek to recover the overpayment or how much to seek to recover from each partner.
126. The powers of the Board under *subsections (1) to (4)* are only available once entitlement, and thus the amount of any overpayment, has been determined in accordance with sections 18 to 21. This section also gives the Board certain powers in relation to overpayments, or expected overpayments, before entitlement has been finally established in this way. *Subsection (5)* deals with cases where it appears likely that an overpayment on an award will arise. It enables the Board to amend that award or any other award of any tax credit with a view to reducing or eliminating that overpayment. *Subsection (6)* allows the Board to treat as an overpayment an amount paid under an award that is subsequently terminated on the ground that the claimant or claimants never satisfied the essential requirement under section 8(1) or 10(1) for there to be any entitlement to the tax credit.